

# FEDERAL REGISTER

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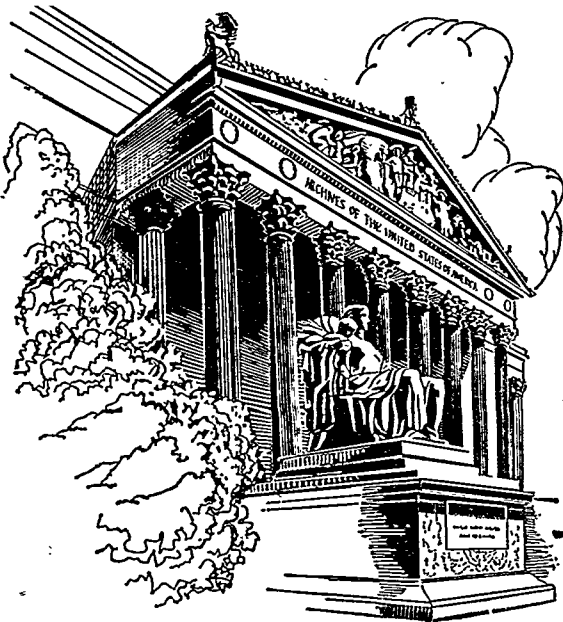
PART I

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*2-year Compilation  
Presidential Documents*

# Code of Federal Regulations

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# Presidential Documents

## Title 3—THE PRESIDENT

### Proclamation 3892

AMERICAN HEART MONTH, 1969

By the President of the United States of America

#### A Proclamation

Brilliant advances have been scored in cardiovascular research in recent years. But heart disease remains a formidable threat to our national well-being. It clouds the future of thousands of children. It cuts down men and women in their most productive years.

Nearly every 30 seconds, someone in the United States dies of some form of heart disease. Last year, it took the lives of approximately one million people—over half of all deaths in the Nation. It incapacitates or hampers millions of others, in varying degrees, from living a full and active life.

Heart disease is costly not only to the afflicted but also to the Nation. The cost of medical care for heart and circulatory disease victims exceeds \$2.5 billion annually. Lost wages and productivity due to illness and disability are estimated at about \$3.5 billion. The loss of future earnings of those who die from heart and blood vessel disease each year is estimated to be in excess of \$19 billion.

Despite the magnitude of the heart disease problem, the progress that has been made is encouraging. Today, some heart disease can be prevented. Greatly improved methods of diagnosis and treatment are more readily available to those who are stricken. The death rate is declining in all but one of the main categories of cardiovascular disease.

This progress has resulted in large part from a collaborative undertaking, led by the National Heart Institute as the principal Federal partner and the American Heart Association as the major voluntary ally. Public, professional, and private interests have been mobilized in a truly national endeavor against heart disease. Through this effort, buttressed by a determination to employ every necessary resource, we can continue to move ahead. With the firm support of all our people, the conquest of heart disease can be achieved.

For such reasons, the Congress, by a joint resolution approved December 30, 1963 (77 Stat. 843), requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the month of February 1969 as American Heart Month, and I invite the Governors of the States, the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States to issue similar proclamations.

I urge the people of the United States to give heed to the nationwide problem of heart disease, and to support programs essential to bring about its solution.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of January, in the year of our Lord nineteen hundred and sixty-nine, and of the Independence of the United States of America the one hundred and ninety-third.



[F.R. Doc. 69-1314; Filed, Jan. 28, 1969; 4:38 p.m.]



# Rules and Regulations

## Title 7—AGRICULTURE

### Chapter III—Agricultural Research Service, Department of Agriculture PART 301—DOMESTIC QUARANTINE NOTICES

#### Subpart—European Chafer

##### REGULATED AREAS

Under the authority of § 301.77-2 of the European Chafer Quarantine regulations, 7 CFR 301.77-2, as amended, 33 F.R. 10274, a supplemental regulation designating regulated areas is hereby issued to appear in 7 CFR 301.77-2a, as follows:

##### § 301.77-2a Regulated areas.

The civil divisions, and parts of civil divisions described below, in the quarantined States, are designated as European chafer regulated areas within the meaning of the provisions in this subpart:

##### CONNECTICUT

*Hartford County.* The towns of Berlin and Southington.

*New Haven County.* The town of Meriden.

##### MASSACHUSETTS

*Essex County.* The towns of Lynnfield and Saugus, and the city of Lynn.

*Middlesex County.* The towns of Arlington, Belmont, Stoneham, Wakefield, and Winchester, and the cities of Cambridge, Everett, Malden, Medford, Melrose, Somerville, and Woburn.

*Suffolk County.* That portion of the city of Boston lying north of the Charles River known as Charlestown and East Boston, and the cities of Chelsea, and Revere.

##### NEW YORK

*Albany County.* The towns of Bethlehem, Colonie, and Guilderland.

*Bronx County.* The entire county.

*Broome County.* The towns of Union and Vestal, and the city of Binghamton.

*Cayuga County.* The towns of Aurelius, Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Sterling, Throop, and Victory, and the city of Auburn.

*Chemung County.* The towns of Ashland, Big Flatts, Chemung, Elmira, Horseheads, Southport, and Veteran, and the city of Elmira.

*Chenango County.* The town and city of Norwich.

*Cortland County.* The town of Cortlandville and the city of Cortland.

*Erie County.* The towns of Amherst, Cheektowaga, Clarence, Grand Island, Hamburg, Lancaster, and Tonawanda, and the cities of Buffalo, Lackawanna, and Tonawanda.

*Genesee County.* The towns of Batavia, Bergen, Le Roy, and Stafford, and the city of Batavia.

*Herkimer County.* The town and city of Herkimer.

*Jefferson County.* The towns of Ellisburg, Hounsfield, and Watertown, and the city of Watertown.

*Kings County.* The entire county.

*Livingston County.* The towns of Caledonia and York.

*Madison County.* The town of Sullivan.

*Monroe County.* The entire county.

*Montgomery County.* The towns of Glen and Mohawk.

*New York County.* Governors Island.

*Niagara County.* The towns of Cambria, Hartland, Lewistown, Lockport, Newfane, Niagara, Fendleton, Porter, Royalton, Wheatfield, and Wilson, and the cities of Lockport, Niagara Falls, and North Tonawanda.

*Oneida County.* The towns of Marcy, New Hartford, and Whitestown, and the city of Utica.

*Onondaga County.* The towns of Camillus, Cicero, Clay, De Witt, Elbridge, Geddes, Ly-sander, Manlius, Mercellus, Onondaga, Salina, Skaneateles, and Van Buren, and the city of Syracuse.

*Ontario County.* Towns of Canandaigua, East Bloomfield, Farmington, Geneva, Gorham, Hopewell, Manchester, Phelps, Seneca, Victor, and West Bloomfield, and the cities of Canandaigua and Geneva.

*Orleans County.* The towns of Albion, Gaines, and Murray.

*Oswego County.* The towns of Granby, Hannibal, Hastings, New Haven, Oswego, Richland, Schroepfel, and Scriba, and the cities of Fulton and Oswego.

*Richmond County.* The entire county (Staten Island).

*Schenectady County.* The town of Glenville.

*Schuyler County.* The towns of Dix, Hector, Montour, Reading, and Tyrone.

*Seneca County.* The towns of Fayette, Junius, Seneca Falls, and Tyre, the village and town of Waterloo, and the city of Seneca Falls.

*Steuben County.* The town and city of Corning.

*Tioga County.* The town of Barton.

*Wayne County.* The entire county.

*Westchester County.* The town of Greenburgh and the city of Yonkers.

*Yates County.* The towns of Milo, Starkey, and Torrey.

##### PENNSYLVANIA

*Bradford County.* The township of Athens; and the boroughs of Athens, Sayre, and South Waverly.

*Carbon County.* The townships of Franklin and Mahoning, and the boroughs of Lehigh-ton and Weissport.

*Erie County.* The townships of Harbor-creek, Lawrence Park, Millcreek, and North East; and the boroughs of Lake City, North East, and Wesleyville; and the city of Erie.

*Lackawanna County.* The city of Scranton.

*Lehigh County.* The township of White-hall; and the boroughs of Catasauqua and Coplay, and the city of Allentown.

*Luzerne County.* The borough of Duryea.

*Lycoming County.* The city of Williams-port.

(Secs. 8 and 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended; 7 CFR 301.77-2)

This supplemental regulation shall become effective upon publication in the FEDERAL REGISTER, when it shall supersede 7 CFR 301.77-2a effective July 18, 1968.

The Director of the Plant Pest Control Division has determined that infestations of the European chafer exist or are likely to exist in the civil divisions, and parts of civil divisions listed above, or that it is necessary to regulate such areas because of their proximity to European

chafer infestations or their inseparability for quarantine enforcement purposes from European chafer infested localities. The Director has further determined that each of the quarantined States is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the European chafer. Accordingly, such civil divisions, and parts of civil divisions listed above, are designated as European chafer regulated areas.

This supplemental regulation adds part of Steuben County in New York to the list of regulated areas for the first time. It also extends the existing regulated areas in Broome, Erie, Genesee, Jefferson, and Niagara Counties in New York.

This document imposes restrictions that are necessary in order to prevent the dissemination of European chafers, and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing regulation are impracticable and contrary to the public interest and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 24th day of January 1969.

[SEAL]

D. R. SHEPHERD,

Director,

Plant Pest Control Division.

[F.R. Doc. 69-1257; Filed, Jan. 29, 1969; 8:49 a.m.]

### Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

#### SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 5]

#### PART 730—RICE

#### Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years

##### DELIVERY OF EXCESS RICE TO THE SECRETARY

*Basis and purpose.* The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of this amendment is to clarify the procedure with respect to warehouse receipts for delivery of excess rice to the Secretary.

Since excess rice is being delivered under this provision of the regulations, it is important that this amendment be issued and made effective as soon as possible. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective as provided herein.

The second sentence of § 730.31(b) of the subpart—Rice marketing quota regulations for 1967 and subsequent crop years (32 F.R. 8666, and 33 F.R. 3213) is revised to read as follows:

**§ 730.31 Delivery of the farm marketing excess to the Secretary.**

(b) *Conditions and methods of delivery.* \* \* \* The delivery of the rice for this purpose shall be effective only when the producers having an interest in the rice to be so delivered convey to the Secretary all right, title, and interest in and to the rice by executing a form provided for this purpose and (1) deliver the rice to a warehouse approved by the Commodity Credit Corporation for price support purposes and tender to the county office manager the warehouse receipt, prepared in accordance with the requirements of the applicable provisions of Part 1421—Grains and Similarly Handled Commodities, for the amount of the rice; or (2) show to the satisfaction of the county committee that it is impracticable to deliver the rice as provided in subparagraph (1) of this paragraph and deliver the rice at a point within the county or nearby and within such time or times as may be designated by the county office manager.

(Secs. 353, 375, 52 Stat. 61, as amended, 66, as amended, 7 U.S.C. 1353, 1375)

*Effective date.* Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on January 24, 1969.

LIONEL C. HOLM,  
*Acting Administrator, Agricultural Stabilization and Conservation Service.*

[F.R. Doc. 69-1258; Filed, Jan. 29, 1969; 8:49 a.m.]

**Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture**

[Navel Orange Reg. 167]

**PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA**

**Limitation of Handling**

**§ 907.467 Navel Orange Regulation 167.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 907, as amended (7 CFR 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 28, 1969.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period January 31, 1969, through February 6, 1969, are hereby fixed as follows:

- (i) District 1: 818,000 cartons;
  - (ii) District 2: 182,000 cartons;
  - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 29, 1969.

FLOYD F. HEDLUND,  
*Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 69-1329; Filed, Jan. 29, 1969; 11:39 a.m.]

## Title 12—BANKS AND BANKING

### Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

#### PART 7—INTERPRETATIONS

#### Acquisition of Controlling Stock Interest in Subsidiary Operations Corporation

Part 7, Chapter I, Title 12, of the Code of Federal Regulations of the United States of America is amended by revising § 7.10, to read as follows:

#### § 7.10 Acquisition of controlling stock interest in subsidiary operations corporation.

(a) The Comptroller of the Currency has confirmed his position that a national bank may acquire and hold the controlling stock interest in a subsidiary operations corporation. A subsidiary operations corporation is a corporation the functions or activities of which are limited to one or several of the functions or activities that a national bank is authorized to carry on. The controlling stock interest is ordinarily 80 percent or more of the voting stock issued by the corporation.

(b) The Comptroller's position involves his interpretation of the sentence in 12 U.S.C. 24(7) which has been mistakenly characterized by some as a "stock-purchase prohibition." Such sentence reads as follows:

Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by \* \* \* [a national banking] association for its own account of any shares of stock of any corporation. [Bracketed material added.]

(1) This sentence is plainly not a prohibition against any form of acquisition and ownership by a national bank of stock in another corporation. Indeed, the sentence is not even a stock-purchase prohibition.<sup>1</sup> Instead by its terms, the quoted sentence is only a disclaimer that certain of the provisions of 12 U.S.C. 24(7)<sup>2</sup> shall not be interpreted to mean that a national bank may purchase stock in another corporation, except as immediately set forth thereafter.<sup>3</sup> In other

<sup>1</sup> An example of such a prohibition is § 97(5) of the New York Banking Law, which provides, in pertinent part, that:

No bank or trust company shall purchase, acquire, or hold any stock of any corporation \* \* \*.

<sup>2</sup> " \* \* \* nothing herein contained shall authorize \* \* \*."

<sup>3</sup> "Except as hereinafter provided \* \* \*."

words, instead of being a prohibition, the quoted sentence simply disavows or negates any construction of certain provisions of 12 U.S.C. 24(7)<sup>4</sup> as granting to national banks the power to purchase stock in other corporations."

(2) Logic compels the conclusion that the disclaimer sentence refers only to the investment securities provisions of 12 U.S.C. 24(7) within which the disclaimer sentence appears. Clearly, the disclaimer sentence is not applicable to all provisions of 12 U.S.C. 24(7) which precede such sentence.<sup>5</sup> Such an interpretation of the words "nothing herein contained" would create a conflict between the disclaimer sentence and judicial decisions which have held that national banks have the power to acquire and hold corporate stock where that action constitutes a reasonable and appropriate step toward the collection of indebtedness. These decisions, first handed down prior to the appearance in 12 U.S.C. 24(7) of the disclaimer sentence, are a construction of the "incidental powers" provision of 12 U.S.C. 24(7), which precede the disclaimer sentence. No one has contended that the disclaimer sentence has overruled these cases. Indeed, these decisions are still considered valid.

(3) In addition to the foregoing irrefutable logic, the legislative history of the disclaimer sentence demonstrates that it was designed to apply exclusively to the investment securities provisions. These provisions empower a national bank to deal in, underwrite, and invest in debt obligations of the Federal Government, municipalities, and private corporations. See Comptroller's Regulation 1 (12 CFR 1). The purpose of the disclaimer sentence is to prevent a national bank from dealing in, underwriting, and otherwise speculatively investing in corporate stock in the same way as a na-

tional bank is empowered with respect to investment securities.

(4) It cannot be said that the disclaimer sentence was intended by Congress to generally circumscribe the authority of national banks to acquire and hold stock in any and all corporate subsidiaries. The legislative histories of the Banking Acts of 1933 and 1935 show that Congress' concern regarding corporate affiliates of national banks was limited to holding company affiliates and affiliates engaged in speculative stock trading, underwriting, and investment activities. Clearly, the legislative intent with respect to the disclaimer sentence was not to deny to national banks the authority to acquire and hold stock in corporations as an incident to and to facilitate the banks' conduct of their banking business.

(c) (1) When determining whether or not a particular function or activity of a national bank, including ownership of controlling stock in a corporation carrying on such function or activity, is within the business of banking, this Office cannot close its mind to the well-known fact that business, in general, is ever-changing and growing and that the banking business has developed rapidly during recent years to meet the requirements of business. Banks have, of necessity, been required to extend their functions and perform services formerly unknown to the banking business. Courts have taken cognizance of this fact in passing upon cases involving questions of banking law.

(2) The use of controlled subsidiary corporations provides national banks with additional options in structuring their businesses. National banks may desire to exercise such option for many reasons, including controlling operations costs, improving effectiveness of supervision, more accurate determination of profits, decentralizing management decisions or separating particular operations of the bank from other operations. The use of a controlled subsidiary corporation may have particular significance in doing business across state lines. Therefore, this Office has concluded that the authority of a national bank to purchase or otherwise acquire and hold stock of a subsidiary operations corporation may properly be found among "such incidental powers" of the bank "as shall be necessary to carry on the business of banking", within the meaning of 12 U.S.C. 24(7), or as an incident to another Federal banking statute which empowers a national bank to engage in a particular function or activity.

Dated: January 27, 1969.

[SEAL] WILLIAM B. CAMP,  
Comptroller of the Currency.

[F.R. Doc. 69-1249; Filed, Jan. 29, 1969;  
8:48 a.m.]

## PART 14—CHANGES IN CAPITAL STRUCTURE

### Stock Dividends

Part 14, Chapter I, Title 12, of the Code of Federal Regulations of the United

States of America is amended by revising § 14.3, to read as follows:

### § 14.3 Stock dividends.

(a) It is the policy of the Comptroller of the Currency not to discourage the retention of earnings by national banking associations in the form of stock dividends. However, recurring stock dividends will not be approved where the market or book value of the stock dividend being proposed, whichever is greater, exceeds 100 percent of the bank's retained profits since the declaration of the last stock dividend. For the purpose of this policy, the term "retained profits" shall mean the remainder of all earnings from current operations plus actual recovery on loans and investments and other assets, after deducting from the total thereof, all current operating expenses, actual losses, cash dividends, accrued dividends on preferred stock, if any, and all Federal and State taxes.

(b) As a general policy, stock dividends which are considered a realignment of capital accounts will not be subject to the above restrictions.

(c) Subject to the provisions of 12 U.S.C. 57, any national banking association may increase its capital stock by the declaration of a stock dividend, with the approval of the Comptroller. For such approval, applications on Form 1904-C shall be filed with the appropriate Regional Administrator of National Banks. The Regional Administrator will communicate his written approval to the bank within 15 days after receipt of the application. Upon receipt of such approval, the bank may proceed to obtain the required approval of stockholders owning two-thirds of the stock of the bank entitled to vote if such approval has not been obtained previously. In cases where the Regional Administrator of National Banks disapproves the proposed stock dividend, he shall forward the application to the Office of the Comptroller in Washington for final disposition and shall advise the bank of such referral. See Ruling 6040 relating to treatment of fractional shares created by stock dividends.

Dated: January 27, 1969.

[SEAL] WILLIAM B. CAMP,  
Comptroller of the Currency.

[F.R. Doc. 69-1248; Filed, Jan. 29, 1969;  
8:48 a.m.]

## Title 24—HOUSING AND HOUSING CREDIT

### Chapter II—Federal Housing Admin- istration, Department of Housing and Urban Development

### MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

<sup>4</sup>Because the words "nothing herein contained" modify the subsequent words of the disclaimer sentence, the phrase "or otherwise permitted by law" is redundant with respect to statutes other than 12 U.S.C. 24(7). When another statute sanctions stock ownership by a national bank, such statute has effect regardless of the phrase "or otherwise permitted by law" because the other statute is not "herein contained" in 12 U.S.C. 24(7). Stated another way, even without the phrase "or otherwise permitted by law", a statute such as 12 U.S.C. 371c would not be in conflict with the disclaimer sentence of 12 U.S.C. 24(7) because the disclaimer sentence, as qualified by the words "nothing herein contained", refers only to provisions of 12 U.S.C. 24(7).

<sup>5</sup>Therefore, although a particular statute which authorizes national banks to carry on a specified activity (other than 12 U.S.C. 24(7)), does not expressly permit a national bank to acquire and hold stock, such authority is derivable from such statute without conflict with the disclaimer sentence. Similar authority may also be derived from a provision of 12 U.S.C. 24(7) if such provision is not one to which the disclaimer sentence refers.

<sup>6</sup>By its initial phrase ("except as herein-after provided") the disclaimer sentence is not applicable to the provisions of 12 U.S.C. 24(7) which follow it.

**SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS**

**PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS**

**Subpart A—Eligibility Requirements**

In § 203.20 paragraph (a) is amended to read as follows:

**§ 203.20 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages insured on or after January 24, 1969.

In § 203.74 paragraph (a) is amended to read as follows:

**§ 203.74 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to loans insured on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

**SUBCHAPTER D—RENTAL HOUSING INSURANCE**  
**PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements**

In § 207.7 paragraph (a) is amended to read as follows:

**§ 207.7 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

**SUBCHAPTER E—COOPERATIVE HOUSING INSURANCE**  
**PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements—Projects**

In § 213.10 paragraph (a) is amended to read as follows:

**§ 213.10 Maximum interest rate.**

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages or supplementary

loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969.

**Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage**

In § 213.511 paragraph (a) is amended to read as follows:

**§ 213.511 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages insured on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 213, 64 Stat. 54, as amended; 12 U.S.C. 1715e)

**SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS**

**PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS**

**Subpart C—Eligibility Requirements—Projects**

In § 220.576 paragraph (a) is amended to read as follows:

**§ 220.576 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

**SUBCHAPTER G—HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES**

**PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE**

**Subpart C—Eligibility Requirements—Moderate Income Projects**

In § 221.518 paragraph (a) is amended to read as follows:

**§ 221.518 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969. Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or applies sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 1715l)

**SUBCHAPTER J—MORTGAGE INSURANCE FOR NURSING HOMES**

**PART 232—NURSING HOMES MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements**

In § 232.29 paragraph (a) is amended to read as follows:

**§ 232.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or applies sec. 232, 73 Stat. 663; 12 U.S.C. 1715w)

**SUBCHAPTER L—CONDOMINIUM HOUSING INSURANCE**

**PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements—Individually Owned Units**

In § 234.29 paragraph (a) is amended to read as follows:

**§ 234.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages insured on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or applies sec. 234, 75 Stat. 160; 12 U.S.C. 1715y)

**SUBCHAPTER M—HOMES FOR LOWER INCOME FAMILIES**

**PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION**

**Subpart D—Eligibility Requirements—Rehabilitation Sales Projects**

Section 235.540 is amended to read as follows:

**§ 235.540 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall such interest rate exceed  $7\frac{1}{2}$  percent per annum with respect to mortgages insured on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or applies sec. 235, 82 Stat. 477; 12 U.S.C. 1715z)

SUBCHAPTER N—PROJECTS FOR LOWER INCOME FAMILIES

**PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS**

**Subpart A—Eligibility Requirements for Mortgage Insurance**

Section 236.15 is amended to read as follows:

**§ 236.15 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed 7½ percent per annum with respect to mortgages insured on or after January 24, 1969.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 236, 52 Stat. 498; 12 U.S.C. 1715z-1)

SUBCHAPTER Q—SUPPLEMENTAL PROJECT LOAN INSURANCE

**PART 241—SUPPLEMENTARY FINANCING FOR FHA PROJECT MORTGAGES**

**Subpart A—Eligibility Requirements**

Section 241.75 is amended to read as follows:

**§ 241.75 Maximum interest rate.**

The loan shall bear interest at the rate agreed upon by the lender and the borrower, but in no case shall the interest rate exceed 7½ percent per annum with respect to loan insured on or after January 24, 1969. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 241, 52 Stat. 508; 12 U.S.C. 1715z-b)

SUBCHAPTER V—LAND DEVELOPMENT INSURANCE

**PART 1000—MORTGAGE INSURANCE FOR LAND DEVELOPMENT**

**Subpart A—Eligibility Requirements**

Section 1000.50 is amended to read as follows:

**§ 1000.50 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed 7½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969.

(Sec. 1010, 79 Stat. 464; 12 U.S.C. 1749jj)

SUBCHAPTER W—GROUP PRACTICE FACILITIES INSURANCE

**PART 1100—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES**

**Subpart A—Eligibility Requirements**

In § 1100.45 paragraph (a) is amended to read as follows:

**§ 1100.45 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, but in no case shall the interest rate exceed 7½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after January 24, 1969.

(Sec. 1104, 80 Stat. 1275; 12 U.S.C. 1749aaa-3)

Issued at Washington, D.C., January 24, 1969.

PHILIP N. BROWNSTEIN,  
Federal Housing Commissioner.  
[F.R. Doc. 69-1246; Filed, Jan. 29, 1969; 8:48 a.m.]

**Title 14—AERONAUTICS AND SPACE**

**Chapter I—Federal Aviation Administration, Department of Transportation**

**SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES**

[Reg. Docket No. 9326; Amdt. 631]

**PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES**

**Miscellaneous Amendments**

**Correction**

In F.R. Doc. 69-171 appearing at page 708 in the issue of Friday, January 17, 1969, the following correction should be made: On page 712 the line immediately preceding the center heading "Standard Instrument Approach Procedure—Type LOC" should read:

date, 23 Jan. 69; Sup. Amdt. No. 14; Dated, 18 Apr. 68

**Title 33—NAVIGATION AND NAVIGABLE WATERS**

**Chapter II—Corps of Engineers, Department of the Army**

**PART 204—DANGER ZONE REGULATIONS**

**Pacific Ocean, Calif.**

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), § 204.203 governing the use of a naval danger zone in the Pacific Ocean at San Miguel Island, Calif., is hereby amended with respect to paragraph (c) (9) to extend temporarily the period of use, as follows:

**§ 204.203 Pacific Ocean at San Miguel Island, Calif., naval danger zone.**

\* \* \* \* \*

(c) *The regulations.* \* \* \* (9) The regulations in this section shall be in effect until April 21, 1969. The regulations shall be reviewed and the continuing need for the zone shall be determined by a public hearing prior to April 21, 1969.

[Regs., ENGCGW-ON] (Sec. 7, 40 Stat. 266, Ch. XIX, 40 Stat. 892; 33 U.S.C. 1, 3)

For the Adjutant General,

HAROLD SHARON,  
Chief, Legislative and Precedent Branch, Office of the Comptroller, TAGO.

[F.R. Doc. 69-1260; Filed, Jan. 29, 1969; 8:49 a.m.]

**Title 26—INTERNAL REVENUE**

**Chapter I—Internal Revenue Service, Department of the Treasury**

**SUBCHAPTER A—INCOME TAX**

[T.D. 6991]

**PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953**

**Deduction for Interest on Installment Purchases**  
**Correction**

In F.R. Doc. 69-655 appearing at page 742 of the issue for Friday, January 17, 1969, the T.D. number in the bracket should read as set forth above.

**Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT**

**Chapter 25—National Science Foundation**

**ADDITION OF NEW CHAPTER**

Title 41 is amended by the addition of new Chapter 25, National Science Foundation, as follows:

**PART 25-1—GENERAL**

**Subpart 25-1.1—National Science Foundation Procurement Regulations System**

Sec. 25-1.101	Establishment of NSF Procurement Regulations.
25-1.102	Purpose.
25-1.103	Authority.
25-1.104	Applicability.
25-1.105	Exclusions.
25-1.106	Issuance.
25-1.106-2	Publication.
25-1.106-3	Inquiries.
25-1.107	Arrangement.
25-1.108	Implementation and supplementation.
25-1.109	Deviation.
25-1.109-1	Description.
25-1.109-2	Procedure.

**AUTHORITY:** The provisions of this Part 25-1 issued under the authority of the National Science Foundation Act of 1950, as amended, 42 U.S.C. 1861-1875, title IX of the National Defense Education Act of 1958, 42



U.S.C. 1876-1879, the National Sea Grant College and Program Act of 1966, 33 U.S.C. 1121-1124, and the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

## **Subpart 25-1.1—National Science Foundation Procurement Regulations System**

### **§ 25-1.101 Establishment of NSF Procurement Regulations.**

The National Science Foundation Procurement Regulations (NSFPR) are hereby established.

### **§ 25-1.102 Purpose.**

These regulations implement and supplement the Federal Procurement Regulations (FPR) and are a part of the Federal Procurement Regulations System.

### **§ 25-1.103 Authority.**

The NSF Procurement Regulations are prescribed by the Director of the National Science Foundation, pursuant to the authority of the National Science Foundation Act of 1950, as amended, 42 U.S.C. 1861-1875, title IX of the National Defense Education Act of 1958, 42 U.S.C. 1876-1879, the National Sea Grant College and Program Act of 1966, 33 U.S.C. 1121-1124, and the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

### **§ 25-1.104 Applicability.**

Except where a deviation is specifically authorized in accordance with § 25-1.109 or otherwise authorized by law, the FPR and the NSFPR govern NSF procurement of personal property and of nonpersonal services. To the extent other NSF regulations affecting procurement are not inconsistent with these regulations they will remain in effect until such time as they are rescinded, lapse or are incorporated in NSFPR.

### **§ 25-1.105 Exclusions.**

A procurement policy or procedure which bears a security classification or is expected to be in effect for less than six months or which is instituted on an experimental basis will not be included in NSFPR. Detailed instructions to NSF employees are not included in the NSFPR.

### **§ 25-1.106 Issuance.**

#### **§ 25-1.106-2 Publication.**

The NSFPR will be published in the daily issues of the FEDERAL REGISTER and, in cumulative form in the Code of Federal Regulations. Copies of NSFPR, as published in the FEDERAL REGISTER and the Code of Federal Regulations, may be purchased by the public from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

#### **§ 25-1.106-3 Inquiries.**

Inquiries regarding the NSFPR should be addressed to the Administrative Manager, National Science Foundation, Washington, D.C. 20550.

### **§ 25-1.107 Arrangement.**

(a) The NSF Procurement Regulations employ the same numbering system

and nomenclature used in the Federal Procurement Regulations and conform with FEDERAL REGISTER standards approved for the FPR.

(b) Where the NSFPR implements a part, subpart, section, or subsection of the FPR, the implementing part, subpart, section, or subsection of the NSFPR will be numbered and captioned to correspond to the FPR part, subpart, section, or subsection.

(c) Where the NSFPR supplements the FPR, the numbers 50 and up will be assigned to the parts, subparts, or sections involved.

(d) Where the subject matter contained in a part, subpart, section, or subsection of the FPR requires no implementation, the NSFPR will contain no corresponding part, subpart, section, or subsection number.

### **§ 25-1.108 Implementation and supplementation.**

The NSF Procurement Regulations "implement" and "supplement" the FPR. The meaning of these terms includes the following:

(a) Implementation may have either of the following meanings:

(1) A part, subpart, section, etc., which treats a similarly numbered portion of the FPR in greater detail or indicates the manner of compliance, including any deviations.

(2) The absence of a corresponding part, subpart, section, etc., in the NSFPR indicates that the FPR is applicable as written. Policies and procedures in the FPR are not repeated in the NSFPR.

(b) Supplementation means NSFPR coverage of matters which have no counterpart in the FPR.

### **§ 25-1.109 Deviation.**

#### **§ 25-1.109-1 Description.**

The term "deviation" includes any of the following actions:

(a) When a prescribed contract clause is set forth verbatim, use of a contract clause covering the same subject matter which varies from that set forth.

(b) When a standard or other form is prescribed, use of any other form for the same purpose.

(c) Alteration of a prescribed standard or other form, except as may be authorized in the regulations.

(d) The imposition of lesser or, where the regulation expressly prohibits, greater limitations than are imposed upon the use of a contract clause, form, procedure, type of contract, or upon any other procurement action, including but not limited to, the making or amendment of a contract, or actions taken in connection with the solicitation of bids or proposals, award, administrative, or settlement of contracts.

(e) When a policy or procedure is prescribed, use of any inconsistent policy or procedure.

#### **§ 25-1.109-2 Procedure.**

In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and NSFPR shall be kept to a minimum and controlled as follows:

(a) In individual cases, deviations from the FPR and NSFPR may be authorized by the Deputy Director. This authority may not be redelegated.

(1) A supporting statement for each individual deviation, which indicates briefly the nature of the deviation and the reasons for such special action shall be included in the contract file.

(b) In classes of cases, requests for deviations from the FPR and NSFPR shall be forwarded to the Deputy Director and shall be accompanied by an appropriate supporting statement.

(c) If a requested deviation is considered appropriate, approval will be accomplished as follows:

(1) Where the deviation applies to an individual case, approval will be granted by memorandum addressed to the Contracting Officer. The contract file shall include a copy of the request and approval.

(2) Where the deviation applies to a class of cases, when necessary, approval of the General Services Administration will be obtained.

(d) When any deviation in a standard form provision is authorized, physical change may not be made in the printed form but shall be made by appropriate provision in the schedule specifications or continuation sheet.

## **PART 25-30—CONTRACT FINANCING**

### **Subpart 25-30.1—Forms of Financing**

#### **§ 25-30.103 Advance payments.**

The NSF legislation provides that advance, progress, or other payments which relate to scientific activities or scientific information may be made without regard to the Provisions of section 3648 Revised Statutes (31 U.S.C. 529). Advance payments may be made in any amount not exceeding the contract price, provided (a) the amount of the advance payment is based upon an analysis of the financing required by the contractor for the contract and does not exceed reasonable financial requirements between payments, and (b) such advance payment is appropriate in order to contract for the required work.

(National Science Foundation Act of 1950 as amended, 42 U.S.C. 1861-1875, title IX of the National Defense Education Act of 1958, 42 U.S.C. 1876-1879, the National Sea Grant College and Program Act of 1966, 33 U.S.C. 1121-1124, and the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended)

## **PART 25-50—SPECIAL AUTHORITIES**

### **Subpart 25-50.1—Additional Authorities**

#### **§ 25-50.101 Additional authority of the National Science Foundation.**

The Foundation has special authority under the National Science Foundation Act, as amended, 42 U.S.C. 1861-1875, title IX of the National Defense Education Act, 42 U.S.C. 1876-1879, and the



National Sea Grant College and Program Act, 33 U.S.C. 1121-1124. For example, the Foundation has authority:

(a) To enter into and amend contracts, for the carrying on of scientific activities and science information activities, without advertising, without legal consideration and without performance or other bonds;

(b) To publish or arrange for the publication of scientific and technical information (permitting exceptions from certain Government Printing Office procedures);

(c) To prescribe, with the approval of the Comptroller General, special accounting procedures;

(d) To acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by the National Science Foundation Act or the National Defense Education Act.

(National Science Foundation Act of 1950, as amended, 42 U.S.C. 1861-1875, title IX of the National Defense Education Act of 1958, 42 U.S.C. 1876-1879, the National Sea Grant College and Program Act of 1966, 33 U.S.C. 1121-1124, and the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended)

These regulations shall become effective March 1, 1969, but may be observed earlier.

Dated: January 21, 1969.

LELAND J. HAWORTH,  
Director,

National Science Foundation.

[F.R. Doc. 69-1234; Filed, Jan. 29, 1969;  
8:47 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4575]

[Anchorage 063258, 063984]

### ALASKA

Withdrawal for Administrative Site, Partial Revocation of Public Land Order No. 2451 of August 2, 1961

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an addition to the Cold Bay Wildlife Administrative Site:

### COLD BAY, ALASKA

From a point marked USED M-7 in a brass shell case set in concrete, at approximate latitude 55°12'36.96" N., and approximate longitude 162°42'52.93" W., which point is approximately 90 feet south of mean high tide of Cold Bay; thence N. 48°53' W., approximately 1,092 feet to the southeast corner of Public Land Order No. 2708, the same being marked by a standard FWS brass cap set in a shell case, and is the true point of beginning of this description; thence north, approximately 915 feet along the east boundary of PLO No. 2708 to a point on the mean high tide of Cold Bay; south and east, approximately 100 feet with the meanders of mean high tide to a point; south approximately 915 feet to a point; west, approximately 100 feet to the true point of beginning of this description.

The tract described contains approximately 2.10 acres.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. Public Land Order No. 2451 of August 2, 1961, withdrawing public lands as additions to Air Navigation Site Withdrawal No. 176, is hereby revoked so far as it affects the following described lands:

### COLD BAY, ALASKA

From a point marked USED M-7 in a brass shell case set in concrete, at approximate latitude 55°12'36.96" N., and approximate longitude 162°42'52.93" W., which point is approximately 90 feet south of mean high tide at Cold Bay; thence N. 48°53' W., approximately 1,092 feet to the southeast corner of Public Land Order No. 2708, the same being marked by a standard FWS brass cap set in a shell case, and is the true point of beginning of this description; thence north, along the east boundary of PLO No. 2708, approximately 915 feet to a point on the mean high tide of Cold Bay; south and east with the meanders of mean high tide approximately 1,200 feet to a point; west, approximately 700 feet to the point of beginning.

The tract described contains approximately 9.50 acres.

Of the area described in this paragraph, approximately 2.10 acres are withdrawn by paragraph 1 of this order.

4. Until 10 a.m. on April 18, 1969, the State of Alaska shall have a preferred right to select the approximately 7.40 acres of land released from withdrawal by paragraph 3 of this order, as provided by section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the regulations in 43 CFR 2222.9. After that time, the lands shall be open to the operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 18, 1969, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

HARRY R. ANDERSON,  
Assistant Secretary of the Interior.

JANUARY 17, 1969.

[F.R. Doc. 69-1221; Filed, Jan. 29, 1969;  
8:46 a.m.]

## Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[No. 35045]

### CLASSIFICATION OF MOTOR COMMON AND CONTRACT CARRIERS OF PASSENGERS

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 8th day of January 1969.

On October 16, 1968, notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 15346) advising all interested persons that the Commission had under consideration a petition filed by National Association of Motor Bus Owners, pertaining to prescribed rules and regulations for common and contract carriers of passengers, grouping carriers into three general classes for accounting and reporting purposes. Representations were filed in support of the proposed rules; one representation was filed objecting and requesting an oral hearing. After consideration of all relevant matters submitted by interested persons, the general classes proposed are hereby adopted, and the request for oral hearing is hereby denied. Wherefore, and good cause appearing:

### PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

It is ordered, That paragraph (a) of Instruction 2-1, Part 1206 of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations is amended to read as follows:

#### 2-1 Classification of carriers.

(a) For purposes of the accounting and reporting regulations, common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following three classes:

*Class I.* Carriers having average annual gross operating revenues (including interstate and intrastate) of \$1 million or more from passenger motor carrier operations.

*Class II.* Carriers having average annual gross operating revenues (including interstate and intrastate) of \$200,000, but less than \$1 million, from passenger motor carrier operations.

*Class III.* Carriers having average annual gross operating revenues (including interstate and intrastate) of less than \$200,000 from passenger motor carrier operations.

\* \* \* \* \*

**PART 1240—CLASSES OF CARRIERS**

*It is further ordered,* That paragraph (a) of § 1240.4, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations is amended to read as follows:

**§ 1240.4 Classification of motor carriers of passengers.**

(a) For purposes of the accounting and reporting regulations, common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following three classes:

*Class I.* Carriers having average annual gross operating revenues (including interstate and intrastate) of \$1 million or more from passenger motor carrier operations.

*Class II.* Carriers having average annual gross operating revenues (including interstate and intrastate) of \$200,000, but less than \$1 million, from passenger motor carrier operations.

*Class III.* Carriers having average annual gross operating revenues (including interstate and intrastate) of less than \$200,000 from passenger motor carrier operations.

**PART 1249—REPORTS OF MOTOR CARRIERS**

**§ 1249.5 [Amended]**

*It is further ordered,* That § 1249.5, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations is amended by deleting the words, "carriers with average annual gross operating revenues (including interstate and intrastate) of \$200,000 or more, from passenger motor carrier operations,"

**§ 1249.6 [Amended]**

*It is further ordered,* That § 1249.6, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations is amended by deleting the words, "carriers having average annual gross operating revenues (including interstate and intrastate) of less than \$200,000 from passenger motor carrier operations,"

**§ 1249.11 [Amended]**

*It is further ordered,* That § 1249.11 of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations is amended by deleting the words, "viz, carriers having average annual gross operating revenues (including interstate and intrastate) of \$200,000 or over annually,

from passenger motor carrier operations,"

*It is further ordered,* That these amendments are effective January 1, 1969.

*And it is further ordered,* That service of this order shall be made on all parties that filed representations and on all common and contract motor carriers of passengers, and notice thereto shall be given the general public by depositing a copy of this order in the Office of the Secretary of the Commission at Washington, D.C., and by filing the order with the Director, Office of the Federal Register.

(Secs. 204, 220, 49 Stat. 546, 563, as amended; 49 U.S.C. 804, 320)

By the Commission, Division 2.

[SEAL]

H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-1255; Filed, Jan. 29, 1969; 8:49 a.m.]

## Title 50—WILDLIFE AND FISHERIES

**Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior**

**PART 32—HUNTING**

**Catahoula National Wildlife Refuge, La.**

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

LOUISIANA

**CATAHOULA NATIONAL WILDLIFE REFUGE**

Public hunting of raccoon on the Catahoula National Wildlife Refuge is permitted on the entire area. Hunting shall be in accordance with State regulations governing the hunting of raccoon and the following special conditions.

(1) Season: February 8-28.

(2) Hunting hours: Sundown to 12 midnight, local time.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas

generally which are set forth in Title 50, Part 32, and are effective through April 27, 1969.

C. EDWARD CARLSON,  
Regional Director, Bureau of  
Sport Fisheries and Wildlife.

JANUARY 21, 1969.

[F.R. Doc. 69-1218; Filed, Jan. 29, 1969; 8:45 a.m.]

**PART 32—HUNTING**

**Kodiak National Wildlife Refuge, Alaska**

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

ALASKA

**KODIAK NATIONAL WILDLIFE REFUGE**

Public hunting of big game on lands within the Kodiak National Wildlife Refuge is permitted in accordance with all applicable State regulations governing big game hunting during the periods of March 1 through May 20, 1969, and November 1 through December 31, 1969.

Special Conditions:

(1) Species permitted to be taken: Brown bear.

(2) Except in the event of an emergency, the landing of aircraft on the Kodiak National Wildlife Refuge is restricted to lakes, streams, and other bodies of water.

(3) A Federal permit is required. Permits will be nontransferable and issued by hunting area units on a priority application basis. Permits may be obtained by applying to Refuge Manager, Kodiak National Wildlife Refuge, Post Office Box 825, Kodiak, Alaska 99615.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1969.

JOHN D. FINDLAY,  
Regional Director, Bureau of  
Sport Fisheries and Wildlife.

JANUARY 23, 1969.

[F.R. Doc. 69-1243; Filed, Jan. 29, 1969; 8:48 a.m.]

# Proposed Rule Making

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 121, 127, 135]

[Docket No. 8041; Notice No. 69-4]

### ADDITIONAL OPERATING RULES APPLICABLE TO OPERATIONS FOR COMPENSATION OR HIRE WITH SMALL AIRCRAFT

#### Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Parts 121, 127, and 135 of the Federal Aviation Regulations to establish certain additional operating requirements for air taxi and commercial operators conducting operations with small aircraft under Part 135, and to require that certificate holders under Parts 121 or 127 conducting operations with small airplanes conduct those operations in accordance with Part 135.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before May 1, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

On March 24, 1967, the Federal Aviation Administration issued advance notice of proposed rule making (Notice 67-9; 32 F.R. 4500) soliciting public participation in the identification and selection of a course of action with respect to contemplated regulatory action that would affect to some extent all operations of small aircraft for compensation or hire under Part 135 of the Federal Aviation Regulations. Comments and recommendations received in response to that notice were informative and helpful in the development of the proposals contained in this notice of proposed rule making.

The rapid growth in recent years of air taxi and commercial operations with small aircraft, and the substantial increase in volume of scheduled operations, together with the recent or imminent introduction of small aircraft capable of

carrying more than 20 occupants, has brought about a capability for Part 135 operators to provide services of a kind that could previously have been provided only by an air carrier operating large aircraft under Part 121 of the Federal Aviation Regulations.

Operations under Part 135, once viewed generally as "jitney" or "occasional" operations, are now characterized by a frequency, regularity and complexity which require increased surveillance and standardization to maintain the level of safety required by the Federal Aviation Act. The FAA believes that the additional operating rules, and the training, testing, and management requirements proposed herein will contribute substantially to the safety and reliability of these operations. Under the enabling provisions of § 135.13, the FAA has previously issued, on a case-by-case basis, operations specifications to Part 135 operators which contain certain of the requirements proposed for general application in this notice.

Notice 67-9 drew a distinction between nonscheduled operations and scheduled operations. Selective application of proposed new rules on this basis was contemplated. Closer study of operations under Part 135 indicates that this distinction is not a valid one, and that the rules proposed herein should be generally applicable. Certain exceptions are made where general application would be impracticable, e.g., a requirement for a training program for the certificate holder who uses only himself as a pilot.

A definition of "scheduled" operations under Part 135, based on publication of schedules, "frequency-of-flights," and interline agreements was considered in notice 67-9. Application of such a definition in identifying an operator or an operation as "scheduled" tends to introduce elements of confusion and differences of opinion which would unduly complicate surveillance by the FAA and compliance by certificate holders. Additionally, the FAA believes that the public is entitled to expect the same standards of safety in operations by all Part 135 certificate holders. Comment is specially solicited with respect to any of the proposals which might appear to impose an undue burden on particular operators or operations.

To provide for uniform operating requirements for like operations and to eliminate an area of possible confusion, it is proposed that Parts 121, 127, and 135 be amended to require that air carriers and commercial operators holding certificates under Part 121 or 127 be required to conduct operations with small airplanes in accordance with the operating rules in Part 135 and operations specifications issued under that part. Air carriers would be permitted to continue to maintain small airplanes in accord-

ance with continuous maintenance programs.

Since incorporation of most or all of the proposed amendments in Part 135 will require extensive rearrangement and renumbering of sections of the part now in effect, no attempt has been made to assign section numbers to all of the proposed amendments. Certain of the proposed amendments to specified sections might appear under a different section number in the event that they are issued as rules. The proposals are arranged generally in the order of subparts of Part 135 now in effect. A brief discussion of each proposal follows in the same order as the proposed amendments.

1. *Operation of small airplanes by Part 121 certificate holders.* Operations would be required to be conducted in accordance with Part 135 and operations specifications issued under Part 135. Maintenance of small airplanes in accordance with continuous airworthiness maintenance programs conducted under Subpart L of Part 121 would be permitted.

2. *Operation of small airplanes by Part 127 certificate holders.* Operations would be required to be conducted in accordance with Part 135 and operations specifications issued under Part 135. Maintenance of small airplanes in accordance with continuous airworthiness maintenance programs conducted under Subpart I of Part 127 would be permitted.

3. *Applicability of Part 135.* The applicability would be broadened to accommodate certificate holders under Parts 121 and 127 operating small airplanes, and to extend to persons on board aircraft being operated under Part 135.

4. *Certificate and operations specifications required.* Deletion of paragraphs (b) and (c) of § 135.9, which relate to ATCO certificates and operations specifications in effect prior to the issuance of Part 135 in 1964 and are no longer applicable, is proposed. Paragraph (a) is restated to delete references to paragraphs (b) and (c), and to require Part 135 certificate holders operating large aircraft to comply with operations specifications issued under Part 121. Paragraph (a) is intended to apply to the ATCO certificate holder and employees of the certificate holder.

5. *Duration of certificates.* To effectively conduct an FAA surveillance program and a general review of operating capabilities and certification requirements each ATCO certificate in effect on the effective date of the proposed rule would expire 60 days later. Continuance of operations under that certificate would be permitted until the Administrator issues or denies a new ATCO certificate if timely application for renewal is made. Operating certificates issued after the effective date of the rule would be effective until surrendered, suspended, or revoked.

6. *Contents of operations specifications.* The statement of the contents of operations specifications is broadened to include listings of types of instrument approach procedures authorized, and aircraft required to be inspected in accordance with an approved inspection program.

7. *Eligibility of Part 121 and 127 certificate holders for certificate and operations specifications.* Air carriers or commercial operators holding certificates under Part 121 or 127 would not be eligible for or required to obtain a separate certificate for operations under Part 135, but would be required to obtain authority to conduct operations under Part 135 by amendment of their operations specifications.

8. *Notification of establishment or change of location of business office or operations base.* To improve the effectiveness of FAA surveillance and inspection programs, it is proposed that certificate holders be required to notify the FAA of the establishment, as well as the change of location, of any business office or operations base, and that operations be prohibited unless that requirement is complied with.

9. *Briefing of passengers.* Additional items for preflight briefing of passengers are proposed.

10. *Limitations for operations in icing conditions.* Recognizing that some airplanes now in operation, or soon to be introduced in operations, are capable of operating in light, moderate, or heavy icing conditions, § 135.85 would be relaxed to permit airplanes that have ice protection provisions that comply with certain standards in Part 25 to operate without complying with paragraphs (b) and (c) of § 135.85. Airplanes certificated in accordance with a proposed new Appendix A to Part 135 (containing additional airworthiness standards for certain airplanes), which has been proposed in a separate notice of proposed rule making, (Notice No. 68-37, 34 F.R. 210) would also be permitted to operate without those restrictions. Additionally, recognizing that weather forecasts sometimes lag behind air mass movements of weather improvements, operations would be permitted if current weather reports and briefing information relied upon by the pilot in command indicate that the forecast conditions will not be encountered.

11. *Pilot-in-command qualifications.* Increased qualification requirements for the pilot-in-command for VFR, IFR, and night operations are proposed. For day VFR operations, a minimum of 500 hours pilot time, with specified experience, and in the case of airplanes an instrument rating or airline transport pilot certificate appropriate to the operation of an airplane under IFR, would be required. For IFR or night operations, a minimum of 1,200 hours, with specified experience, and in the case of airplanes an instrument rating or airline transport pilot certificate appropriate to the operation of an airplane under IFR, would be required.

For day or night VFR operations, the instrument rating required need not be

current with respect to recent instrument flight experience. The skill level represented by the rating alone is considered adequate for those operational circumstances. However, the additional recent flight experience requirements of Part 61 would be applicable in all operating circumstances.

The proposed qualification requirements for IFR or night operations are the basic requirements for an airline transport pilot certificate. Establishment of this requirement is viewed by the FAA as an initial step in progression to a possible future requirement for an airline transport pilot certificate for IFR operations.

12. *Pilot-in-command qualifications for helicopters carrying passengers VFR over-the-top.* Section 135.123 is proposed to be amended to apply only to VFR over-the-top operation of helicopters, since the proposed PIC qualifications for day or night VFR flight in airplanes would be the same as, or higher than, those now required for VFR over-the-top operations.

13. *Deletion of § 135.125.* Section 135.125 would be deleted as unnecessary since PIC qualification requirements would be stated in § 135.121.

14. *Deletion of § 135.129.* Section 135.129 would be deleted as unnecessary since recent experience requirements for operation of small multiengine airplanes would be covered by pilot training and testing programs proposed in paragraphs 27 and 28 of this notice.

15. *Manual requirements.* A requirement for preparation, maintenance, and distribution of a company operations manual is proposed. Such a manual is viewed as a necessary and valuable management device which contributes to the orderly and safe conduct of operations. The small operator who uses only himself as a pilot is excepted from this requirement.

16. *Record keeping and administrative controls.* It is proposed that certificate holders be required to maintain current records on crewmembers, and that all certificate holders prepare and retain for a specified period load manifests for multiengine operations.

17. *Training of employed certificated mechanics.* Certificate holders who employ certificated mechanics would be required to provide or arrange for necessary training to enable those mechanics to meet the requirements of § 65.81 of the Federal Aviation Regulations with respect to new equipment.

18. *Compliance with types of instrument approach procedures authorized.* A requirement is proposed that IFR operations into any airport be conducted only in accordance with the types of instrument approach procedures authorized in the certificate holder's operations specifications.

19. *Flight locating requirements.* It is proposed that certificate holders have procedures established for locating each flight for which an FAA flight plan is not filed, and for timely notification of search and rescue facilities if an aircraft is overdue or missing. The requirement is flexible enough to permit flights into

isolated areas based on round trip time estimates. Filing of an FAA flight plan for a flight would satisfy the locating requirement.

20. *Aircraft proving tests.* A requirement for the conduct of aircraft proving tests with turbojet airplanes or an aircraft certificated to carry more than 10 persons is proposed. The requirement parallels the requirement in § 121.163 (b), with a reduction in flight time from 50 hours to 25 hours. Pilot flight training is permitted during the proving tests.

21. *Landing and takeoff distance limitations.* It is proposed to require the pilot in command to familiarize himself with all available information regarding runway lengths and reliable data appropriate to aircraft performance under expected values of airport elevation, wind and temperature.

22. *Alcoholic beverages.* Rules for limiting the serving and consumption of alcoholic beverages, which parallel the requirements in Part 121, are proposed.

23. *Carriage of cargo.* Requirements for carriage of cargo other than in bins or compartments installed in accordance with applicable type certification requirements are proposed.

24. *Flight and duty time limitations.* The flight and duty time limitations applicable to domestic air carriers under Part 121 are proposed for application to operations under Part 135, with an additional requirement that each flight crewmember be relieved from all duty for at least 10 consecutive hours during any 24-hour period. While the FAA believes that these limitations are appropriate for operations under Part 135 in the interest of safety, previous objections by certificate holders and representative organizations are acknowledged. If portions of this proposal present problems, they should be identified and discussed. Alternate recommendations are also solicited.

25. *Second in command for aircraft with more than 10 occupants.* A requirement is proposed for a second in command in the operation of aircraft that are type certificated or otherwise approved by the Administrator to carry more than 10 occupants. The second in command would provide a margin of safety against the contingency of the incapacitation of the pilot in command in small aircraft with high seating capacity.

26. *Flight attendant crewmember requirement.* It is proposed to require a flight attendant crewmember on board an aircraft that has a passenger seating capacity of more than nine when the pilot compartment is separate from the passenger compartment and when the aircraft has a passenger seating capacity of more than 15 persons. A trained flight attendant is necessary, when aircraft with these higher passenger capacities are used, to assist the pilot in maintaining an adequate level of passenger safety under normal and emergency conditions.

27. *Pilot and flight attendant crewmember training programs.* A requirement for establishing and maintaining a

pilot and flight attendant crewmember training program appropriate to the operations to which each pilot and flight attendant will be assigned, is proposed. The pilot training program requirement would not be applicable to a certificate holder who uses only himself as a pilot. Changes to the training program may be required on notification by the Administrator. Provision is made for petitioning the Administrator to reconsider the notice to make a change, and for staying the notice pending a decision by the Administrator.

28. *Initial and recurrent pilot testing requirements.* Requirements for initial and recurrent pilot testing to determine that each pilot is currently proficient in practical skills and techniques are proposed. The required testing could be accomplished by personnel considered by the certificate holder to be adequately qualified and experienced. The certificate holder who uses only himself as a pilot would be required to pass a periodic flight and oral test given by the Administrator, and would be expected to obtain any necessary training on his own initiative, since the proposed training program would not be applicable.

29. *Initial and recurrent flight attendant crewmember testing requirements.* Requirements for initial and recurrent testing of flight attendant crewmembers are proposed. The tests are to insure that each flight attendant is knowledgeable and competent in his assigned duties and responsibilities.

30. *Pilot in command qualifications for routes and airports.* Route and airport qualification requirements similar to those applicable to supplemental air carriers and under Part 121 are proposed. A periodic flight check, given by an approved check pilot or by the Administrator, over a representative airway or off-airway route would be required for IFR operations.

31. *Emergency flotation means for overwater operations.* A requirement for providing flotation means for each occupant during overwater operations is proposed. A provision is included for approval of operations without such equipment, if it can be shown that the water over which the aircraft is to be operated is frozen, or is not of such size or depth that flotation means would be required.

32. *Reporting of mechanical irregularities.* A requirement for the pilot in command to report mechanical irregularities and defects to the certificate holder is proposed.

33. *Empty weight and center of gravity.* It is proposed, to be effective 6 months after the effective date of the proposed rules, to require calculation of the current empty weight and center of gravity from values established by actual weighing of the aircraft within the preceding 3 years.

34. *Approved aircraft inspection programs.* Provisions for development, approval, and conduct of aircraft inspection programs, in lieu of those required or permitted under § 91.169 of Part 91, on the initiative of the Administrator or of the certificate holder are proposed. It is anticipated that improved inspection

programs that are responsive to the certificate holder's operational requirements can be developed in this manner. Among the factors to be considered in development and approval of the program are: Size and stability of the operator's aircraft fleet; the operator's maintenance management practices; geographical area of operations; types of operations, e.g., IFR or VFR, frequency of landings; manufacturer's recommendations; and, service history, particularly with respect to new or evident trends, and with special reliance on the service experience of a particular operator. Procedures for notice, development, approval, change, and reconsideration of a program are proposed.

35. *Mechanical reliability reports.* A requirement for reporting failures, malfunctions, or defects to the FAA, similar to that required under § 121.703 of Part 121, is proposed.

36. *Mechanical interruption summary report.* A requirement for monthly reporting of mechanical interruptions similar to that required under § 121.705 of Part 121, is proposed.

In consideration of the foregoing, it is proposed to amend Parts 121, 127, and 135 of the Federal Aviation Regulations as follows:

1. By amending § 121.9 to read as follows:

#### § 121.9 Operation of small airplanes.

Each certificate holder shall conduct its operations with small airplanes in accordance with Part 135 of this chapter and operations specifications issued in accordance with that part. However, the holder of an air carrier operating certificate issued under this part may maintain its small airplanes in accordance with a continuous airworthiness maintenance program that meets the requirements in Subpart L of this part and operations specifications issued to it under this part.

2. By adding a new § 127.5 to Part 127 to read as follows:

#### § 127.5 Operation of small airplanes.

Each certificate holder shall conduct its operations with small airplanes in accordance with Part 135 of this chapter and operations specifications issued in accordance with that part. However, the holder of an air carrier operating certificate issued under this part may maintain its small airplanes in accordance with a continuous airworthiness maintenance program that meets the requirements in Subpart I of this part and operations specifications issued to it under this part.

3. By amending § 135.1(a)(3) and by adding new subparagraphs (4) and (5) to read as follows:

#### § 135.1 Applicability.

(3) The carrying in air commerce by any person of persons or property for compensation or hire in small aircraft;

(4) The carrying in air commerce by an air carrier or commercial operator holding a certificate under Part 121 or 127 of this chapter of persons or prop-

erty for compensation or hire in small airplanes; and

(5) Each person who is on board an aircraft being operated under this Part.

4. By amending § 135.9 to read as follows:

#### § 135.9 Certificate and operations specifications required.

No person may operate an aircraft in operations to which this part applies without, or in violation of, an ATCO certificate, and appropriate operations specifications issued under this part, or in the case of operations with large aircraft, operations specifications issued under Part 121 of this chapter.

5. By amending § 135.11 to read as follows:

#### § 135.11 Duration of certificate.

(a) An ATCO certificate issued after (effective date of this amendment) is effective until surrendered, suspended, or revoked. The holder of an ATCO certificate that is suspended or revoked shall return it to the Administrator.

(b) ATCO certificates in effect on (effective date of this amendment) shall expire on (60 days following the effective date of this rule). However, if an ATCO certificate holder makes application for renewal of his certificate before the expiration date, that certificate shall continue in effect until the Administrator issues or denies a new ATCO certificate.

6. By amending paragraph (b)(2) of § 135.13 to read as follows:

#### § 135.13 Application and issue of certificate and operations specifications.

\* \* \* \* \*

(b) \* \* \*

(2) Separate operations specifications containing the type and area of operations authorized, the class and category of aircraft that he may use in those operations, types of instrument approach procedures authorized, a listing of aircraft required to be inspected in accordance with an approved inspection program, any authorized deviations from this part, and such other items as the Administrator may require or allow to meet any particular situation.

7. By amending § 135.15 by adding a new flush paragraph following paragraph (c) to read as follows:

#### § 135.15 Eligibility for certificate and operations specifications.

\* \* \* \* \*

However, an air carrier or commercial operator holding a certificate under Part 121 or 127 of this chapter is not eligible for or required to obtain a separate certificate for operations under this part, but must obtain authority to conduct those operations by appropriate amendments to its operations specifications.

8. By amending § 135.41(b) and by adding a new paragraph (c) to read as follows:

#### § 135.41 Business office and operations base.

\* \* \* \* \*

(b) Each person holding an ATCO certificate shall, before establishing, or



changing the location of any business office or operations base notify in writing the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located.

(c) No person holding an ATCO certificate who establishes, or changes the location of any business office or operations base may operate an aircraft in operations subject to this part unless he has complied with paragraph (b) of this section.

9. By amending § 135.81 to read as follows:

**§ 135.81 Briefing of passengers before flight.**

Each pilot in command shall insure that all passengers are orally briefed before beginning each flight on—

- (a) Smoking;
- (b) Use of seat belts;
- (c) Location and means for opening the passenger entry door and emergency exits;
- (d) Locations, contents, and use of survival equipment;
- (e) If the flight involves extended overwater operation, the use of required flotation equipment and ditching procedures; and
- (f) If the flight involves operations above 10,000 feet MSL, the normal and emergency use of oxygen.

10. By amending § 135.85 by adding new paragraphs (d) and (e) to read as follows:

**§ 135.85 Icing conditions: operating limitations.**

(d) Paragraphs (b) and (c) of this section do not apply—

- (1) To reciprocating engine powered airplanes that have ice protection provisions that comply with § 25.1419 (a) through (c) of this chapter, in effect on (date of this rule);
- (2) To turbine engine powered airplanes that have ice protection provisions that comply with §§ 25.1093(b) and 25.1419 (a) through (c) of this chapter in effect on (date of this rule); or
- (3) To airplanes certificated in accordance with section 34 of Appendix A of this part.

(e) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing condition that would otherwise prohibit the flight will not be encountered during the flight, the restrictions in paragraphs (b) and (c) based on forecast conditions do not apply.

11. By amending § 135.121 to read as follows:

**§ 135.121 Pilot-in-command qualifications: VFR, IFR, or night flight.**

(a) No person may act as pilot in command of an aircraft under IFR or at night unless he has—

- (1) Had at least 1,200 hours of flight time as a pilot, including 500 hours of cross-country flight time, 100 hours of night flight time, including at least 10 night takeoffs and landings, and 75 hours

of actual or simulated instrument flight time, at least 50 hours of which were in actual flight; and

(2) In the case of airplanes, an instrument rating or airline transport pilot certificate appropriate to the operation of that airplane under IFR.

(b) No person may act as pilot in command of an aircraft under VFR during the day unless he has—

- (1) Had at least 500 hours of flight time as a pilot, including 100 hours of cross-country flight time, 5 hours of night flight time, and at least 10 takeoffs and landings at night; and

(2) In the case of airplanes, an instrument rating or airline transport pilot certificate appropriate to the operation of that airplane under IFR.

12. By amending § 135.123 to read as follows:

**§ 135.123 Pilot-in-command qualifications: helicopters carrying passengers VFR over-the-top.**

(a) No person may act as pilot in command of a helicopter carrying passengers VFR over-the-top unless he holds a helicopter instrument rating, or an airline transport pilot certificate with a rotorcraft category and helicopter class rating not limited to VFR.

(b) Paragraph (a) does not apply to flight under conditions that allow—

- (1) In the case of multiengine helicopters, descent or continuance of the flight under VFR if the critical engine fails; or

(2) In the case of single-engine helicopters, descent under VFR if the engine fails.

13. By deleting § 135.125.

14. By deleting § 135.129.

15. By adding the following new section to Part 135:

**§ 135. Manual requirements.**

(a) Each ATCO certificate holder, other than one who uses only himself as a pilot, shall prepare and keep current a manual for the use and guidance of flight, ground operations, and maintenance personnel in conducting its operations.

(b) Each manual shall be kept in a form that is easy to revise and shall have the date of the last revision on each revised page. The manual must include—

- (1) The identity of each person in a management capacity who is authorized to act for the certificate holder in his assigned area of responsibility;

(2) Procedures for ensuring compliance with weight and balance limitations and for ascertaining the currency of empty weight and center of gravity data;

(3) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of aircraft authorized, crew complements, types of operations authorized, such as VFR, IFR, day, night, passenger, cargo, and approach facilities authorized;

(4) Procedures for complying with accident notification requirements;

(5) Procedures for ensuring that the pilot in command knows that required

airworthiness inspections have been made and that the aircraft has been released to service in compliance with applicable maintenance requirements;

(6) Procedures for reporting of mechanical irregularities or defects that come to the attention of the pilot in command during flight or preflight inspection;

(7) Procedures to be followed by the pilot in command for ascertaining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(8) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the aircraft at a place where prior arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(9) Procedures that will minimize fuel contamination, protect against fire and fuel spillage or other hazards, and provide for the supervision and protection of aircraft occupants during fueling activities;

(10) Flight locating procedures, when applicable;

(11) Procedures for ensuring compliance with emergency procedures;

(12) Enroute and airport qualification procedures for pilots, when applicable; and

(13) Other procedures and policy instructions pertinent to the operator's operations, that are issued by the operator.

(c) The manual shall not be contrary to any applicable Federal regulation, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operations specifications or operating certificate.

(d) A copy of the manual, or appropriate portions of the manual (and changes and additions thereto) shall be made available to maintenance personnel by the certificate holder and furnished to—

- (1) Its ground operations personnel;
- (2) Its crewmembers; and
- (3) Representatives of the Administrator assigned to it.

(e) Each person to whom a manual or appropriate portions of it are furnished under subparagraphs (1) and (2) of paragraph (d) of this section shall keep it up to date with the changes and additions furnished to him.

(f) Except as provided in paragraph (g) of this section, each certificate holder shall carry appropriate parts of the manual on each aircraft when away from the principal base. The appropriate parts must be available for use of ground or flight personnel.

(g) If a certificate holder is able to perform all scheduled maintenance at specified stations where it keeps maintenance parts of the manual, it does not have to carry those parts of the manual aboard the aircraft en route to those stations.

16. By adding the following new section to Part 135:

**§ 135.---- Administrative controls: crewmember records and load manifests.**

(a) Each certificate holder shall—  
(1) Maintain current records of each crewmember that show whether or not he complies with this chapter (e.g., proficiency and route checks, aircraft and route qualifications, training, and required physical examinations, and flight time records); and

(2) Record each action taken concerning the release from employment or physical or professional disqualification of any flight crewmember and keep the record for at least 6 months thereafter at its principal operations base, or at another location used by it and approved by the representative of the Administrator assigned to it.

(b) In the case of multiengine aircraft each certificate holder shall prepare or cause to be prepared a load manifest containing the following information concerning the loading of the aircraft at takeoff time—

(1) The weight of the aircraft, fuel and oil, cargo (including mail and baggage), and passengers;

(2) The maximum allowable weight for that flight;

(3) The total weight computed under approved procedures; and

(4) Evidence that the aircraft is loaded according to an approved schedule that insures that the center of gravity is within approved limits.

(c) The pilot in command of an aircraft for which a load manifest is required to be prepared shall carry a copy of the completed load manifest in the aircraft to its destination, and the certificate holder shall keep copies of completed load manifests for at least 3 months at its principal operations base, or at another location used by it and approved by the representative of the Administrator assigned to it.

17. By adding the following new section to Part 135:

**§ 135.---- Employed certificated mechanics; training required.**

Each certificate holder shall provide or arrange for the necessary training of each certificated mechanic in his employ to enable that mechanic to meet the requirements of § 65.81 of this chapter with respect to basic model series of aircraft, airframes, engines, propellers, and appliances that are new to the certificate holder's operations.

18. By adding the following new section to Part 135:

**§ 135.---- Compliance with instrument approach procedures.**

No person may operate an aircraft under IFR operations to which this part applies into any airport except in accordance with the types of instrument approach procedures authorized in the operator's operations specifications.

19. By adding the following new section to Part 135:

**§ 135.---- Flight locating requirements.**

(a) Each certificate holder must have procedures established for locating each

flight, for which an FAA flight plan is not filed, that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Establish a procedure for timely notification of an FAA facility or search and rescue facility, if an aircraft is overdue or missing; and

(3) Provide the certificate holder with the locations, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where radio communications cannot be maintained.

(b) Flight locating information shall be maintained on file at the certificate holder's principal place of business, or at such other places as may be designated by the operator in the flight locating procedures until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions thereto, unless those procedures are included in a manual required to be maintained under this Part.

20. By adding the following new section to Part 135:

**§ 135.---- Aircraft proving tests.**

(a) No certificate holder may operate a turbojet airplane, or an aircraft that is certificated to carry more than 10 occupants, if it has not previously proved that aircraft type or if that aircraft has been materially altered in design in any operation to which this part applies, unless, in addition to the aircraft certification tests, at least 25 hours of proving tests have been flown by that certificate holder including—

(1) Five hours of night time, if night flights are to be authorized;

(2) Five instrument approach procedures under simulated or actual instrument weather conditions, if IFR flights are to be authorized; and

(3) Entry into a representative number of en route airports as determined by the Administrator.

(b) No certificate holder may carry passengers in an aircraft during proving tests, except those needed to make the tests and those designated by the Administrator to observe the tests. However, pilot flight training may be conducted during the proving test.

21. By adding the following new section to Part 135:

**§ 135.---- Landing and takeoff distance limitations.**

(a) Each pilot in command shall, before beginning a flight, familiarize himself with all available information concerning runway lengths at airports of intended use and the landing and takeoff distance required for the aircraft. This information must include takeoff and landing distance data contained in the approved aircraft flight manual, or other reliable data appropriate to the aircraft relating to aircraft performance under expected values of airport elevation, wind, and temperature.

22. By adding the following new section to Part 135:

**§ 135.---- Alcoholic beverages.**

(a) No person may drink any alcoholic beverage aboard an aircraft unless a flight attendant-crewmember has served that beverage to him.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or of any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft.

23. By adding the following new section to Part 135:

**§ 135.---- Carriage of cargo.**

No person may carry cargo in any aircraft except in cargo bins or compartments installed in accordance with applicable certification requirements, unless—

(a) If passengers are carried, the cargo is carried forward of the foremost passenger;

(b) The cargo is adequately secured by a safety belt or other tiedown to prevent it from becoming a hazard by shifting;

(c) The cargo does not impose a load on the seats or the floor structure that exceeds the load limitation for those components;

(d) The location of the cargo does not restrict access to or use of any required emergency or regular exit by any passenger, or access to an emergency exit by a pilot, if a regular exit is not accessible to the pilot; and

(e) The location of the cargo does not obscure any passenger's view of any required sign used to instruct or notify him, unless an auxiliary sign or other approved means for proper instruction or notification is provided.

24. By adding the following new section to Part 135:

**§ 135.---- Flight and duty time limitations: flight crewmembers.**

(a) No operator may schedule any flight crewmember for duty aloft if that crewmember's total flight time in all commercial flying will exceed—

(1) 1,000 hours in any calendar year.

(2) 100 hours in any calendar month.

(3) 30 hours in any 7 consecutive days.

(b) No operator may schedule a flight crewmember for duty aloft for more than 8 hours during any 24 consecutive hours without a rest period at or before the end of that 8 hours, equal to twice the number of hours of duty aloft since the last period, but not less than 8 hours.

(c) Each flight crewmember who has been on duty aloft for more than 8 hours during any 24 consecutive hours must be given, upon completion of his assigned flight or series of flights, at least 16 hours of rest before being assigned to any duty with the operator.

(d) The operator shall relieve each flight crewmember from all further duty for at least 24 consecutive hours during any 7 consecutive days.

(e) The operator may not assign any flight crewmember to any duty with the operator during any required rest period.

(f) Time spent in transportation, not local in character, that the operator requires of a flight crewmember and provides to transport the crewmember to the airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station, is not considered part of the rest period.

(g) A flight crewmember is not considered to be scheduled for duty in excess of flight time limitations if the flights to which he is assigned are scheduled and normally terminated within the limitations, but due to circumstances beyond the control of the operator (such as adverse weather conditions), are not at the time of departure expected to reach their destination within the scheduled time.

(h) Each flight crewmember shall be relieved from all duty for at least 10 consecutive hours during any 24-hour period.

25. By adding the following new section to Part 135:

**§ 135.--- Second in command required: aircraft with more than 10 occupants.**

No person may operate an aircraft that is type certificated or otherwise approved by the Administrator to carry more than 10 occupants, unless there is a second in command of that aircraft.

26. By adding the following new section to Part 135:

**§ 135.--- Flight attendant crewmember requirement.**

No person may operate an aircraft unless there is a flight attendant crewmember on board the aircraft when—

(a)(1) The aircraft has a passenger seating capacity of more than 9 and the pilot compartment is separate from the passenger compartment; or

(b)(2) The aircraft has a passenger seating capacity of more than 15.

27. By adding the following new section to Part 135:

**§ 135.--- Pilot and flight attendant crewmember training programs.**

(a) Each certificate holder, other than one who uses only himself as a pilot, shall establish and maintain a pilot training program, and each certificate holder who uses a flight attendant crewmember shall establish and maintain a flight attendant training program, that—

(1) Is appropriate to the operations to which each pilot and flight attendant is to be assigned and will insure that he is adequately trained to meet the applicable initial and recurrent knowledge and practical testing requirements of this Part;

(2) Contains the pilot and flight attendant curriculums and minimum time to be spent in their completion;

(3) Provides current and appropriate study materials, examinations, training forms, instructions, and procedures for

use in conducting tests appropriate to each aircraft type operated; and

(4) Provides any additional ground and flight training necessary to insure qualification in new equipment, procedures, or techniques.

(b) The certificate holder shall determine through appropriate written and practical tests that each pilot and flight attendant crewmember meets the knowledge and practical standards set forth in this part. The results of each test shall be recorded in the crewmember's record and retained for 1 year.

(c) No certificate holder required to have a training program may use a pilot or flight attendant crewmember in operations under this part unless, before serving in those operations, that crewmember has—

(1) Satisfactorily completed the appropriate initial training phase of the training program appropriate to the type of operations in which he is to serve as a pilot or flight attendant; and

(2) Thereafter satisfactorily completed the recurrent training and any required tests therefor within 12 calendar months after the initial training phase or last recurrent training.

(d) When a pilot or flight attendant crewmember completes any required recurrent training or testing in the calendar month before, or the calendar month after, the calendar month in which it becomes due, he is considered to have been tested or trained in the calendar month in which it became due.

(e) The certificate holder shall furnish copies of the pilot and flight attendant crewmember training program, and all changes and additions thereto, to the representative of the Administrator assigned to it. If the certificate holder uses training facilities of other persons, a copy of training programs or appropriate portions used for those facilities shall also be furnished.

(f) Whenever the Administrator finds that revisions to a training program are necessary for the continued adequacy of the program the operator shall, after notification by the Administrator, make any changes in the program found by the Administrator to be necessary. The operator may petition the Administrator to reconsider the notice to make a change in a program. The petition should be filed with the representative of the Administrator assigned to it within 30 days after the operator receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administration.

28. By adding the following new section to Part 135:

**§ 135.--- Initial and recurrent pilot testing requirements.**

(a) Each certificate holder required to have a pilot training program shall determine by appropriate initial and recurrent testing that each pilot is knowledgeable in the following areas before he is assigned to serve as a pilot—

(1) The appropriate provisions of Parts 61, 91, and 135 of this chapter,

the certificate holder's operations specifications, and the operator's manual;

(2) For each type of aircraft to be flown by the pilot, the aircraft powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operation procedures, and the contents of the approved aircraft flight manual or owner's handbook, as applicable;

(3) For each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing, and en route operations, as set forth in the operator's manual;

(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology, in general and as appropriate to the operator's operations;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) Each certificate holder required to have a pilot training program shall determine by appropriate testing that each pilot is currently proficient in practical skills and techniques in the class of aircraft, if single-engine airplane other than turbojet, and in the type of aircraft, if helicopter, multiengine or turbojet, before he is assigned to serve as a pilot in that aircraft. The testing necessary to determine the pilot's proficiency shall include at least a demonstration of the skill requirements appropriate to the operations authorized for the pilot as set forth in Part 61 of this chapter and related advisory circulars for pilot certification in the class of aircraft the pilot is to operate. In addition, if a pilot is to be assigned to areas or routes that must be navigated by pilotage, his skill in navigation solely by pilotage must be demonstrated.

(c) No certificate holder who uses only himself as a pilot in operations under this part, may act as a pilot unless he has passed within the preceding 12 calendar month period, a flight and oral test given by the Administrator on the knowledge and skill requirements contained in paragraphs (a) and (b) of this section.

(d) The 6-month instrument check required by § 135.131 may be substituted for the tests required by this section for the type of aircraft used in the check.

29. By adding the following new section to Part 135:

**§ 135.--- Initial and recurrent flight attendant crewmember testing requirements.**

Each certificate holder who uses a flight attendant crewmember shall determine by appropriate initial and recurrent testing that each flight attendant is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities, before he is



assigned to serve as a flight attendant crewmember—

- (a) Authority of the pilot in command;
- (b) Passenger handling, including procedures to be followed in the event of the presence of deranged persons or other persons whose conduct might jeopardize the safety of other passengers;
- (c) Crewmember assignments, functions, and responsibilities during ditching and evacuation;
- (d) Briefing of passengers;
- (e) Location and operation of portable fire extinguishers;
- (f) Proper use of cabin equipment and controls;
- (g) Location and operation of passenger oxygen equipment; and
- (h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes.

30. By adding the following new section to Part 135:

**§ 135. Pilot in command qualifications: Routes and airports.**

(a) Each certificate holder shall establish a procedure whereby each pilot who has not flown over a route or area and into an airport within the preceding 12-calendar-month period will certify on a form provided by the certificate holder that he has studied and knows the subjects listed in paragraph (b) of this section in regard to that route or area and airport into which he is to operate.

(b) Each qualifying pilot shall show or certify that he has adequate knowledge of the following:

- (1) Weather characteristics;
- (2) Navigation facilities;
- (3) Communication procedures;
- (4) Kinds of terrain and obstruction hazards;
- (5) Minimum safe flight levels;
- (6) Congested areas, obstructions, and physical layout of each airport in the terminal area in which the pilot will operate; and

(7) For operations under IFR, pertinent air traffic control procedures, including terminal area, departure and holding, and all types of instrument approach procedures authorized for the operator.

(c) The certificate holder may not utilize a pilot, nor may any person serve, as pilot in command of an IFR flight unless, within the preceding 12 calendar months he has passed a flight check in one of the types of airplanes that he is to fly, given by an approved check pilot who is qualified in the aircraft, or by the Administrator, consisting of at least one flight over a representative airway or approved off-airway route, or portion thereof, over which he may be assigned to fly.

(d) The pilot who conducts the check shall determine whether the pilot being checked satisfactorily performs the duties and responsibilities of a pilot in command, and shall so certify by entering his certification in the pilot training record.

31. By adding the following new section to Part 135:

**§ 135. Emergency flotation means for overwater operations.**

(a) Except as provided in paragraph (b) of this section, no person may operate an aircraft in any overwater operation unless it is equipped with flotation means for each occupant that is readily accessible and easily removable from the aircraft.

(b) Upon application by the operator, the Administrator may approve overwater operations without the flotation means required by paragraph (a) of this section, if the operator shows that the water over which the aircraft is to be operated is frozen, or is not of such size or depth that flotation means would be required for the survival of occupants.

32. By adding the following new section to Part 135:

**§ 135. Reporting of mechanical irregularities.**

The pilot in command shall report to the ATCO certificate holder each mechanical irregularity that comes to his attention during flight time and each defect noted by him during preflight inspection of the aircraft.

33. By adding the following new section to Part 135:

**§ 135. Empty weight and center of gravity: Currency requirement.**

After (6 months after the effective date of the amendment) no person may operate an aircraft in operations to which this part applies unless the current empty weight and center of gravity are calculated from values established by actual weighing of the aircraft within the preceding 3 years.

34. By adding the following new section to Part 135:

**§ 135. Approved aircraft inspection program.**

(a) Whenever the Administrator finds that the aircraft inspections required or permitted under § 91.169 of this chapter are not adequate to meet the requirements of this part, the certificate holder, after notification by the Administrator, shall develop and submit to the Administrator's approval an aircraft inspection program, for all aircraft for which he has exclusive use, that contains adequate procedures and instructions to meet the requirements of this part and the certificate holder's operations.

(b) A certificate holder who desires to conduct aircraft inspections in a manner other than that required or permitted under § 91.169 of this chapter, may develop and submit an aircraft inspection program for all aircraft for which he has exclusive use for the Administrator's approval.

(c) The aircraft inspection program submitted for the Administrator's approval shall contain the following:

- (1) Instructions and procedures for the conduct of aircraft inspections (which must include necessary tests and checks), setting forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including emergency equipment, that must be inspected.

(2) A schedule for the performance of the aircraft inspections under subparagraph (1) of this paragraph expressed in terms of time in service, calendar time, number of system operations, or any combination of these.

(3) Instructions as to the recording, form of records, and disposition of records, of defects found during inspections.

(d) After approval, the approved inspection program shall be incorporated in the certificate holder's manual, and a listing of registration numbers of all aircraft subject to the program will be included in the certificate holder's operations specifications.

(e) Whenever the Administrator finds a deficiency in an approved aircraft inspection program, the certificate holder, after notification by the Administrator, shall make any changes in the program to correct that deficiency.

(f) A certificate holder may petition the Administrator to reconsider the notice to develop and submit a program or to make a change in a program, in accordance with the provisions of § 135.19 of this part.

(g) Each certificate holder who has an approved aircraft inspection program shall conduct aircraft inspections in accordance with that program.

35. By adding the following new section to Part 135:

**§ 135. Mechanical reliability reports.**

(a) Each ATCO certificate holder shall report the occurrence or detection of each failure, malfunction, or defect concerning—

(1) Fires during flight and whether the related fire-warning system functioned properly;

(2) Fires during flight not protected by a related fire-warning system;

(3) False fire warning during flight;

(4) An engine exhaust system that causes damage during flight to the engine, adjacent structure, equipment, or components;

(5) An aircraft component that causes accumulation or circulation of smoke, vapor, or toxic or noxious fumes in the crew compartment or passenger cabin during flight;

(6) Engine shutdown during flight because of flameout;

(7) Engine shutdown during flight when external damage to the engine or airplane structure occurs;

(8) Engine shutdown during flight due to foreign object ingestion or icing;

(9) Engine shutdown during flight of more than one engine;

(10) A propeller feathering system or ability of the system to control overspeed during flight;

(11) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage during flight;

(12) A landing gear extension or retraction or opening or closing of landing gear doors during flight;

(13) Brake system components that result in loss of brake actuating force when the airplane is in motion on the ground;

(14) Aircraft structure that requires major repair;

(15) Cracks, permanent deformation, or corrosion of aircraft structures, if more than the maximum acceptable to the manufacturer or the FAA; and

(16) Aircraft components or systems that result in taking emergency actions during flight (except action to shut down an engine).

(b) For the purpose of this section "during flight" means the period from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing.

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft that occurs or is detected at any time if, in its opinion, that failure, malfunction, or defect has endangered or may endanger the safe operation of an aircraft used by it.

(d) Each certificate holder shall send each report required by this section, in writing, covering each 24-hour period beginning at 0900 hours local time of each day and ending at 0900 hours local time on the next day to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located. The report must be mailed or delivered to that office on the following day. However, a report that is due on Saturday or Sunday may be mailed or delivered on the following Monday and one that is due on a holiday may be mailed or delivered on the next workday.

(e) The certificate holder shall transmit the reports required by this section on Form FAA 1226, "Malfunction or Defect Report," and shall include as much of the following as is available:

- (1) Type and identification number of the aircraft.
- (2) The name of the operator.
- (3) The date.
- (4) The nature of the failure, malfunction, or defect.
- (5) Identification of the part and system involved, including available information pertaining to type designation of the major component and time since overhaul.
- (6) Apparent cause of the failure, malfunction, or defect (e.g., wear, crack, design deficiency, or personnel error).

(7) Other pertinent information necessary for more complete identification, determination of seriousness, or corrective action.

(f) Failures, malfunctions, or defects reported under the accident reporting provisions of Part 430 of the regulations of the National Transportation Safety Board need not be reported under this section.

(g) No person may withhold a report required by this section even though all information required by this section is not available.

36. By adding the following new section to Part 135:

**§ 135. Mechanical interruption summary report.**

Each certificate holder shall mail or deliver, before the end of the 10th day of the following month, a summary report of the following occurrences for each month to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located:

(a) Each interruption to a flight, unscheduled change of aircraft en route, or unscheduled stop or diversion from a route, caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under § 135.6 (section requiring Mechanical Reliability Reports).

(b) The number of engines removed prematurely because of malfunction, failure or defect, listed by make and model and the aircraft type in which it was installed.

(c) The number of propeller featherings in flight, listed by type of propeller and engine and airplane on which it was installed. Propeller featherings for training, demonstration, or flight check purposes need not be reported.

These amendments are proposed under the authority of section 313(a), and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), and 1421 through 1430), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 24, 1969.

JAMES F. RUDOLPH,  
Director,  
Flight Standards Service.

[F.R. Doc. 69-1242; Filed, Jan. 29, 1969; 8:48 a.m.]

## FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 22,535]

### FEDERAL SAVINGS AND LOAN SYSTEM

#### Certain Lending Powers

JANUARY 23, 1969.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend subparagraph (4) of paragraph (b) of § 545.6-1 of Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.6-1(b)(4)) for the purpose of increasing the present 10 percent-of-assets regulatory limit in such subparagraph to the 15 percent-of-assets statutory limit provided by section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464) for certain loans on "other dwelling units" and, therefore, it is hereby proposed that said subparagraph be amended to read as follows:

**§ 545.6-1 Lending powers under sections 13 and 14 of Charter K.**

(b) *Other dwelling units; combination of dwelling units, including homes, and business property involving only minor or incidental business use.* \* \* \*

(4) *Loans not subject to the limitations of § 545.6-7.* Loans made under subparagraphs (1), (2), and (3) of this paragraph, by a Federal association whose aggregate general reserves, surplus, and undivided profits equal or exceed 5 percent of its withdrawable accounts, shall not be subject to the limitations of § 545.6-7 if the following requirements are met:

(i) The security property is located within the association's regular lending area;

(ii) The amount of the loan (unless an insured or guaranteed loan) does not exceed the lesser of (a) the maximum percentage of the value of the security authorized by subparagraphs (1), (2), and (3) of this paragraph and (b) an amount per dwelling unit within the limits set forth in section 207(c)(3) of the National Housing Act, with such increases therein as may be made from time to time by the Federal Housing Commissioner in accordance therewith, plus an amount that is not in excess of 75 percent of the value of such part of the security as is used for business purposes; and

(iii) The amount of such loan, plus the unpaid balances of outstanding loans meeting the requirements of this subparagraph, plus the amount of outstanding investments made pursuant to paragraph (a) of § 545.6-4 in participation interests in such loans, does not aggregate a total in excess of 15 percent of the association's assets.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW, Washington, D.C. 20552, by March 3, 1969, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,  
Secretary.

[F.R. Doc. 69-1244; Filed, Jan. 29, 1969; 8:48 a.m.]

# Notices

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### AREA DIRECTORS, ASSISTANT AREA DIRECTORS, AND DEPUTY AREA DIRECTORS

##### Delegation of Authority

JANUARY 24, 1969.

1. The Assistant Area Directors at the Aberdeen, Billings, Juneau, Minneapolis, Portland, and Sacramento Areas; and the Deputy Area Directors at the Anadarko and Muskogee Areas, Bureau of Indian Affairs, are authorized, under the general direction and supervision of the Area Director at the respective areas, to severally exercise all the power and authority of the Area Director. This delegation will terminate on the date of re-delegation of authority by the respective Area Directors or 90 days from the date of this notice, whichever is sooner.

2. All actions taken by the aforementioned officials from January 9, 1969, to the date of publication of this notice, which were taken under authority formerly delegated by section 3(b) of Bureau Order 551, are hereby ratified.

3. The intent of this delegation and ratification is to provide each Area Director adequate time to determine which of his authorities, if any, will be redelegated to the officials listed above and to publish such redelegations.

FRED H. MASSEY,  
Acting Commissioner.

[F.R. Doc. 69-1220; Filed, Jan. 29, 1969;  
8:45 a.m.]

### Bureau of Land Management ALASKA

#### Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 22, 1969.

The Department of Agriculture has filed an application, Anchorage Serial No. AA-3433, for the withdrawal of the lands described herein from location or entry under the mining laws. The land lies within the South Tongass National Forest and the purpose of the proposed withdrawal is to protect the tract for use as a recreation area for the general public.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulation, 43 CFR 2311.1-3(c), provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

#### REVILLAGIGEDO ISLAND, KETCHIKAN AREA

##### SOUTH TONGASS NATIONAL FOREST

##### Naha River Recreation Area

Beginning on point A on mean high water, coordinates 55°35'24" N. latitude, 131°37'6" W. longitude. Proceed N. 28° E., 2,640 feet to point B; thence S. 80° E., 6,336 feet to point C; thence N. 41° E., 8,448 feet to point D; thence S. 38° E., 18,480 feet to point E; thence S. 39°30' W., 2,640 feet to point F; thence N. 51° W., 10,560 feet to point G; thence N. 32° W., 6,600 feet to point H; thence S. 9°30' W., 5,280 feet to point I; thence N. 86° W., 9,240 feet to point J; thence due north 264 feet to point K on mean high water; thence in a northwesterly direction along mean high water, approximately 3 miles to point of beginning.

Containing 1,780 land acres and 860 water acres.

T. G. BINGHAM,  
Acting State Director.

[F.R. Doc. 69-1222; Filed, Jan. 29, 1969;  
8:46 a.m.]

[Sacramento 2286]

### CALIFORNIA

#### Opening of National Forest Lands

JANUARY 24, 1969.

1. In an order issued October 29, 1968, the Federal Power Commission vacated the withdrawals created pursuant to the filing of applications for license for Project No. 371, for the following lands:

#### MOUNT DIABLO MERIDIAN

T. 1 N., R. 26 E.,  
Sec. 19, lots 2 and 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 20, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 29, W $\frac{1}{2}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 30, E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$   
SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

The areas described aggregate approximately 1,282 acres in Mono County within the Inyo National Forest.

2. The SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SW $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ , sec. 32 are patented. The SW $\frac{1}{4}$ SW $\frac{1}{4}$ , sec. 20, W $\frac{1}{2}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ , sec. 29, and N $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ NW $\frac{1}{4}$ , sec. 32 are withdrawn in the Mono-Long Valley Geothermal Area, under Sacramento 410, effective February 7, 1967, amended March 22, 1967.

3. By virtue of the authority vested in the Secretary of the Interior by section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to authority redelegated to me by the Acting Manager November 18, 1965 (30 F.R. 14444) as amended October 9, 1968 (33 F.R. 10578) it is hereby ordered that the lands listed in paragraph 1 hereof are hereby opened to such forms of disposal as may by law be made of national forest lands effective at 10 a.m. on February 27, 1969, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws and regulations.

ELIZABETH H. MIDTBY,  
Chief, Lands Adjudication Section.

[F.R. Doc. 69-1223; Filed, Jan. 29, 1969;  
8:46 a.m.]

### Fish and Wildlife Service NATIONAL WILDERNESS PRESERVATION SYSTEM

#### Status Report on Wilderness Reviews Within the National Wildlife Refuge System

The Wilderness Act, Public Law 88-577 (78 Stat. 890), provided the authority and indicated the procedure by which lands in the National Wildlife Refuge System that meet the necessary requirements may be considered for inclusion in the National Wilderness Preservation System. This law directed the study and review, within 10 years after September 3, 1964, of every roadless area of 5,000 contiguous acres or more and every roadless island within national wildlife refuges and game ranges to determine the suitability or unsuitability of each such area for inclusion in the National Wilderness Preservation System. The law directed that reviews were to be completed on one-third of the areas and islands by September 3, 1967; not less than two-thirds by September 3, 1971; and

the remainder within 10 years of the date of enactment, or September 3, 1974.

The Bureau of Sport Fisheries and Wildlife published a list (FEDERAL REGISTER, Vol. 31, No. 197, Oct. 11, 1966) of wildlife refuges and ranges within the National Wildlife Refuge System which were considered to be qualified for study as wilderness. This is a report on the current status of wilderness studies and reviews within the National Wildlife Refuge

System and supersedes the above publication.

Wilderness reviews have been completed on the following 30 refuges. This number meets the requirement of the Wilderness Act to complete one-third of the reviews within a specified period. The acres recommended column contains the total acres within the refuges that were selected after study as being suitable as wilderness.

Refuge or range	Date of public hearing	Judicial division	Total refuge acres	Acres recommended
<b>Alaska:</b>				
Bering Sea NWR <sup>1</sup>	April 25, 1967	Second	41,113	41,113
Bogoslof NWR	do	Third	390	390
Forrester Island NWR	April 4, 1967	First	2,832	2,832
Hazy Islands NWR	do	do	42	42
St. Lazaria NWR	do	do	65	65
Tuxedni NWR	April 25, 1967	Third	6,439	6,390
			50,881	50,832
<b>Florida:</b>				
Cedar Keys NWR	April 7, 1967	Levy	378	378
Island Bay NWR	do	Charlotte	20	20
Passage Key NWR	do	Manatee	20	20
Pelican Island NWR	April 5, 1967	Indian River	616	403
			1,034	821
<b>Georgia:</b>				
Okefenokee NWR	April 21, 1967	Ware, Charlton, Clinch	340,778	319,000
			340,778	319,000
<b>Maine:</b>				
Moosehorn NWR:				
Edmunds	Apr. 12, 1967	Washington	5,345	2,775
Birch Islands	do	do	7	7
			5,352	2,782
<b>Massachusetts:</b>				
Monomoy NWR	Jan. 11, 1967	Barnstable	2,698	2,600
			2,698	2,600
<b>Michigan:</b>				
Huron NWR	May 10, 1967	Marquette	147	147
Michigan Island NWR	Mar. 29, 1967	Alpena, Charlevoix	12	12
Seney NWR	May 10, 1967	Schoolcraft	95,455	25,150
			95,614	25,309
<b>New Jersey:</b>				
Great Swamp NWR	Feb. 17, 1967	Morris	4,500	3,750
			4,500	3,750
(NOTE: Public Law 90-532 dated September 28, 1968, established the Great Swamp National Wildlife Refuge Wilderness Area)				
<b>New Mexico:</b>				
Bitter Lake NWR	Apr. 5, 1967	Chaves	24,084	8,500
Bosque del Apache NWR	Mar. 29, 1967	Socorro	57,191	*25,000
			81,275	33,500
<b>Oklahoma:</b>				
Wichita Mountains Wildlife Refuge	Apr. 18, 1967	Comanche	59,020	8,900
			59,020	8,900
<b>Oregon:</b>				
Hart Mountain National Antelope Refuge	Apr. 12, 1967	Lake	240,664	48,000
Malheur NWR	May 2, 1967	Harney	180,851	50,000
Oregon Island NWR	Apr. 4, 1967	Curry	21	21
Three Arch Rocks NWR	do	Tillamook	17	17
			421,553	98,638
<b>Utah:</b>				
Bear River Migratory Bird Refuge	Feb. 21, 1967	Box Elder	64,895	0
			64,895	0
<b>Washington:</b>				
Copalis NWR	Mar. 28, 1967	Grays Harbor	5	5
Flattery Rocks NWR	do	Clallam	125	125
Quillayute Needles NWR	do	Clallam, Jefferson	117	116
			247	247
<b>Wisconsin:</b>				
Gravel Island NWR	Feb. 15, 1967	Door	27	27
Green Bay NWR	do	do	2	2
			29	29
Total—30 national wildlife refuges (first review period)			1,127,876	546,408

\*Acreage subject to refinement.

The following National Wildlife Refuges contain potential wilderness resources that meet the basic criteria as outlined in the Wilderness Act for detailed study as to the suitability or non-suitability of each such area as wilderness. Each refuge will be studied

to determine whether a recommendation should be made to the President to include all or any part of each such refuge in the National Wilderness Preservation System. All reviews are to be completed by September 3, 1974.

State	Judicial division	Acres in refuge
<b>Alaska:</b>		
Aleutian Islands NWR <sup>1</sup>	Third	2,720,430
Arctic National Wildlife Range	Fourth	8,599,859
Chamisso NWR <sup>2</sup>	Second	641
Clarence Rhode National Wildlife Range	Second and fourth	1,870,015
Hazen Bay NWR	Second	6,800
Izembek National Wildlife Range <sup>3</sup>	Third	414,212
Kenai National Moose Range <sup>2</sup>	do	1,730,000
Kodiak NWR	do	1,815,000
Nunivak NWR <sup>2</sup>	Fourth	1,109,334
Samidi NWR <sup>2</sup>	Third	8,422
Simeonof NWR <sup>2</sup>	do	10,442
		18,635,205
<b>Arizona:</b>		
Cabeza Prieta Game Range <sup>3</sup>	Pima, Yuma	860,000
Havas Lake NWR <sup>2</sup>	Mohave, Ariz., and San Bernardino, Calif.	41,456
Imperial NWR <sup>2</sup>	Yuma, Ariz., and Imperial, Calif.	43,331
Kola Game Range <sup>2</sup>	Yuma	660,000
		1,604,492
<b>Arkansas:</b>		
White River NWR	Arkansas, Desha, Monroe, Phillips	112,626
		112,626
<b>California:</b>		
Farallon NWR <sup>2</sup>	San Francisco	91
		91
Havas Lake <sup>2</sup>	(See Arizona)	
Imperial <sup>2</sup>	(See Arizona)	
<b>Florida:</b>		
Caloosabatchee NWR	Lee	40
Chassahowitzka NWR	Citrus, Hernando	30,705
Great White Heron NWR <sup>2</sup>	Monroe	1,997
Key West NWR <sup>2</sup>	Monroe	2,019
Matlacha	Lee	10
National Key Deer NWR <sup>2</sup>	Monroe	6,745
Pine Island NWR	Lee	31
St. Marks NWR	Jefferson, Taylor, Wakulla	65,136
		106,633
<b>Georgia:</b>		
Piedmont NWR	Jones, Jasper	33,276
Tybee NWR	Chatham	100
Wolf Island NWR	McIntosh	538
Blackbeard Island NWR	McIntosh	5,618
		39,532
<b>Hawaii:</b>		
Hawaiian Islands NWR	Honolulu	1,765
	Parish	1,765
<b>Louisiana:</b>		
Breton <sup>2</sup>	Plaquemines	7,512
East Timbalier Island NWR	Terrebonne	337
Sabine NWR	Cameron	142,846
Shell Keys NWR	Iberia	8
	County	150,703
<b>Maine:</b>		
Moosehorn NWR	Washington	16,065
Baring Unit		16,065
<b>Maryland:</b>		
Martin NWR	Somerset	4,423
		4,423
<b>Mississippi:</b>		
Horn Island NWR	Jackson	2,442
Petit Bois NWR	Jackson	749
		3,191
<b>Montana:</b>		
Charles M. Russell National Wildlife Range <sup>2</sup>	Garfield, Valley, Phillips, Petroleum, Fergus, McCone	951,267
Red Rock Lakes NWR	Beaverhead	39,946
		991,213
<b>Nebraska:</b>		
Crescent Lake NWR	Garden	45,996
Valentine NWR	Cherry	71,516
		117,512

See footnotes at end of document.

State	Judicial division	Acres in refuge
Nevada:		
Anaho Island NWR <sup>1</sup>	Washoe.....	248
Charles Sheldon Antelope Range.	Humboldt, Washoe.....	544, 605
Desert National Wildlife Range.	Clark, Lincoln.....	1, 588, 000
		2, 132, 853
New Jersey:		
Brigantine NWR.....	Atlantic, Ocean.....	18, 067
		18, 067
New Mexico:		
San Andres NWR.....	Dona Ana.....	57, 217
		57, 217
Ohio:		
West Sister Island NWR. <sup>2</sup>	Lucas.....	82
		82
South Carolina:		
Cape Romain NWR.....	Charleston.....	34, 698
Carolina Sandhills NWR.	Chesterfield.....	45, 591
		80, 289
Texas:		
Laguna Atascosa NWR.	Cameron.....	45, 086
		45, 086
Washington:		
San Juan NWR. <sup>3</sup> .....	San Juan.....	52
		52

The following refuges extend for several hundred miles along the Mississippi River. Only the islands in the refuges will be studied. Acreage is unknown.

Illinois, Iowa, Minnesota, Wisconsin:  
Upper Mississippi Wildlife and Fish Refuge.<sup>3</sup>

Illinois, Iowa, Missouri:  
Mark Twain National Wildlife Refuge.<sup>2</sup>

Acres

Total—54 National Wildlife  
Refuges to be studied..... 24, 067, 492

<sup>1</sup> NWR—National Wildlife Refuge.

<sup>2</sup> Studies underway.

<sup>3</sup> Reviews scheduled for completion in calendar year 1969.

As required under the provisions of the Wilderness Act, and regulations of the Secretary of the Interior published February 22, 1966 (31 F.R. 7899), studies by the Bureau of Sport Fisheries and Wildlife will be followed by public hearings, so that all interested persons may express their views. Each public hearing will be announced in the FEDERAL REGISTER, at least 60 days in advance of the date of the public hearing.

JOHN S. GOTTSCHALK,  
Director, Bureau of  
Sport Fisheries and Wildlife.

[F.R. Doc. 69-1173; Filed, Jan. 29, 1969;  
8:45 a.m.]

[Depredation Order]

## DEPREDATING GOLDEN EAGLES

### Order Permitting Taking To Seasonally Protect Domestic Livestock in Certain Wyoming Counties

Pursuant to authority in section 2 of the Act of June 8, 1940 (54 Stat. 251), as amended, 16 U.S.C. 668a, and in accordance with regulations under Part 11, Title 50, Code of Federal Regulations,

and in response to the written request from the Governor of Wyoming, the Secretary of the Interior has authorized the taking of golden eagles without a permit to seasonally protect domesticated livestock during the period from February 1, 1969, through June 30, 1969, in Wyoming, subject to the following conditions:

1. Golden eagles may be taken without a permit only for the protection of domesticated livestock and only by livestock owners and their agents.

2. Golden eagles may be taken by any suitable means or methods except by the use of poison or from aircraft.

3. Golden eagles or any parts thereof taken pursuant to this authorization may not be possessed, purchased, sold, traded, bartered, or offered for sale, trade, or barter.

4. Taking without a permit is authorized only in the following counties:

Albany.	Johnson.
Big Horn.	Natrona.
Campbell.	Niobrara.
Carbon.	Sheridan.
Converse.	Sweetwater.
Crook.	Uinta.
Fremont.	Weston.

5. Any person taking golden eagles pursuant to this authorization must at all reasonable times, including during actual operations, permit any Federal or State game agent or deputy game agent, warden, protector, or other game law enforcement officer, free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

A. V. TUNISON,  
Acting Director, Bureau of  
Sport Fisheries and Wildlife.

JANUARY 24, 1969.

[F.R. Doc. 69-1219; Filed, Jan. 29, 1969;  
8:45 a.m.]

## Office of the Secretary LORAN A. EISELE

### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of January 17, 1969.

Dated: January 17, 1969.

LORAN A. EISELE.

[F.R. Doc. 69-1224; Filed, Jan. 29, 1969;  
8:46 a.m.]

## ANDREW PAT JONES

### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of December 31, 1968.

Dated: January 10, 1969.

ANDREW PAT JONES.

[F.R. Doc. 69-1225; Filed, Jan. 29, 1969;  
8:46 a.m.]

## VIVAN B. JONES

### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of January 10, 1969.

Dated: January 10, 1969.

VIVAN B. JONES.

[F.R. Doc. 69-1226; Filed, Jan. 29, 1969;  
8:46 a.m.]

## MAX R. LLEWELLYN

### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of January 15, 1969.

Dated: January 15, 1969.

MAX R. LLEWELLYN.

[F.R. Doc. 69-1227; Filed, Jan. 29, 1969;  
8:46 a.m.]

**CARLOS O. LOVE****Statement of Changes in Financial Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) Delete Texas Instruments Inc.
- (3) No change.
- (4) No change.

This statement is made as of January 1, 1969.

Dated: January 8, 1969.

CARLOS O. LOVE.

[F.R. Doc. 69-1228; Filed, Jan. 29, 1969; 8:46 a.m.]

**JOHN P. MADGETT****Statement of Changes in Financial Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of January 15, 1969.

Dated: January 16, 1969.

JOHN P. MADGETT.

[F.R. Doc. 69-1229; Filed, Jan. 29, 1969; 8:46 a.m.]

**WILLIAM G. MEESE****Statement of Changes in Financial Interests**

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) Addition: Norris Industries.
- (3) No change.
- (4) No change.

This statement is made as of January 13, 1969.

Dated: January 13, 1969.

WILLIAM G. MEESE.

[F.R. Doc. 69-1230; Filed, Jan. 29, 1969; 8:46 a.m.]

**SAMUEL RIGGS SHEPPERD****Statement of Changes in Financial Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of January 9, 1969.

Dated: January 9, 1969.

RIGGS SHEPPERD.

[F.R. Doc. 69-1231; Filed, Jan. 29, 1969; 8:46 a.m.]

**WILLARD B. SIMONDS****Statement of Changes in Financial Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of January 8, 1969.

Dated: January 8, 1969.

WILLARD B. SIMONDS.

[F.R. Doc. 69-1232; Filed, Jan. 29, 1969; 8:47 a.m.]

**WILFORD D. WILDER****Statement of Changes in Financial Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months.

- (1) No change.
- (2) Appointee is currently participating in an employee stock purchase plan adopted by Niagara Mohawk Power Corp. effective January 1, 1965, and has elected the maximum participation possible which is 6 percent of appointee's annual salary.
- (3) No change.
- (4) No change.

This statement is made as of January 9, 1969.

Dated: January 9, 1969.

WILFORD D. WILDER.

[F.R. Doc. 69-1233; Filed, Jan. 29, 1969; 8:47 a.m.]

**DEPARTMENT OF COMMERCE****Business and Defense Services Administration****AMERICAN MEDICAL ASSOCIATION****Notice of Decision on Application for Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00115-33-46500. Applicant: American Medical Association, Education and Research Foundation, 535 North Dearborn Street, Chicago, Ill. 60610. Article: Ultramicrotome, LKB 8800 Ultratome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce ultrathin sections for electron microscopic examination of nervous tissue. In the nervous tissue, the primary study is synaptology. Because the continuity between nervous tissue elements is of primary concern, there is a need for extremely thin sections to determine the specific relationship between these synapsing structures. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument is the Model MT-2 ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorval Model MT-2 has a guaranteed minimum thickness capability of 100 angstroms. In its memorandum dated October 18, 1968, the Department of Health, Education, and Welfare advised that the capability of producing sections down to 50 angstroms is pertinent to the purposes for which the foreign article is intended to be used. For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such



article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1211; Filed, Jan. 29, 1969;  
8:45 a.m.]

#### CLEVELAND CLINIC FOUNDATION

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00077-33-46500. Applicant: Cleveland Clinic Foundation, 2020 East 93d Street, Cleveland, Ohio 44106. Article: Ultramicrotome, Model LKB 8800A Ultratome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies concerning ultrastructural changes in early coronary artery disease. Human coronary arteries are obtained while autologous veins are used to replace the segment of diseased artery after careful clinical and cineangiographic evaluation. Serial sections of each specimen must be obtained routinely to study under the electron microscope cellular and extracellular changes occurring in early stages of coronary artery disease. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument is the Model MT-2 ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 has a guaranteed minimum thickness capability of 100 angstroms. In its memorandum dated October 21, 1968, the Department of Health, Education, and Welfare advised that the capability of producing sections down to 50 angstroms is pertinent to the purposes for which foreign article is intended to be used. For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1212; Filed, Jan. 29, 1969;  
8:45 a.m.]

#### MASSACHUSETTS GENERAL HOSPITAL

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00075-33-46500. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Ultramicrotome, Model LKB 8800 Ultratome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare serial sections of equal thickness of brains of different gestational ages for phase and electron microscopy in connection with the study of fine structure of normally and abnormally developing brains. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument is the Model MT-2 ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 has a guaranteed minimum thickness capability of 100 angstroms. In its memorandum dated October 21, 1968, the Department of Health, Education, and Welfare advised that the capability of producing sections down to 50 angstroms is pertinent to the purposes for which foreign article is intended to be used. For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is

being manufactured in the United States.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1213; Filed, Jan. 29, 1969;  
8:45 a.m.]

#### NORTHWESTERN UNIVERSITY

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00095-65-46500. Applicant: Northwestern University, 619 Clark Street, Room 120, Evanston, Ill. 60201. Article: Ultramicrotome, LKB 4800A Ultratome I. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with research that deals with the morphology and internal structure of high polymer in the solid state. In order to study the internal microstructure of polymers under the electron microscope, a microtome capable of cutting ultrathin serial sections of equal thickness is necessary. The thickness of these sections should be easily chosen by the operator between 50 angstroms and 2 microns. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument is the Model MT-2 ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 has a guaranteed minimum thickness capability of 100 angstroms. In its memorandum dated October 18, 1968, the Department of Health, Education, and Welfare advised that the capability of producing sections down to 50 angstroms is pertinent to the purposes for which foreign article is intended to be used. For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such

article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1214; Filed, Jan. 29, 1969;  
8:45 a.m.]

#### UNIVERSITY OF ARKANSAS

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00078-00-46040. Applicant: University of Arkansas, Medical Center, Department of Anatomy, Little Rock, Ark. 72201. Article: Shutter/Exposure meter specimen airlock with beam alignment, Universal Plate & Film Camera for Elmiskop LA electron microscope. Manufacture: Siemens AG, West Germany. Intended use of article: The article will be used as an accessory to an existing electron microscope for measuring exact exposure time. Comments: No comments have been received regarding this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory for an electron microscope which was imported previously and is now in the possession of the applicant.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with the foreign article or can be adapted to the electron microscope for which the foreign article is intended.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1215; Filed, Jan. 29, 1969;  
8:45 a.m.]

#### UNIVERSITY OF MICHIGAN

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the

Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00124-33-46500. Applicant: University of Michigan, Rackham Arthritis Research Unit, 4633 Kresge Medical Research Building, Ann Arbor, Mich. 48104. Article: Ultramicrotome, LKB 8800A Ultratome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies linked to synovial fibroblasts grown in tissue culture, from both normal and rheumatoid patients. A study is currently underway defining the differences between the two groups of cells at the ultrastructural level. For this purpose, thin sectioning is required, for observation under the electron microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument is the Model MT-2 ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 has a guaranteed minimum thickness capability of 100 angstroms. In its memorandum dated October 22, 1968, the Department of Health, Education, and Welfare advised that the capability of producing sections down to 50 angstroms is pertinent to the purposes for which the foreign article is intended to be used. For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1216; Filed, Jan. 29, 1969;  
8:45 a.m.]

#### VANDERBILT UNIVERSITY

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scien-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00076-33-46500. Applicant: Vanderbilt University, Nashville, Tenn. 37203. Article: Ultramicrotome, LKB 8800 Ultratome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies of the ultrastructure and cytochemistry of a number of parasitic helminths. Ultrathin sections are required in long series and must be cut in equal thickness throughout for electron microscopy. Further, it is anticipated that the results of studying the chemistry of certain organelles found in these parasitic worms will allow the applicant to better understand the relationship of these animals to their various hosts (humans, in some instances). Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument is the Model MT-2 ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 has a guaranteed minimum thickness capability of 100 angstroms. In its memorandum dated October 21, 1968, the Department of Health, Education, and Welfare advised that the capability of producing sections down to 50 angstroms is pertinent to the purposes for which foreign article is intended to be used. For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,  
Assistant Administrator for In-  
dustry Operations, Business  
and Defense Services Admin-  
istration.

[F.R. Doc. 69-1217; Filed, Jan. 29, 1969;  
8:45 a.m.]



## CIVIL AERONAUTICS BOARD

[Docket No. 20620; Order 69-1-78]

## AIR ENTERPRISES

## Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority on January 21, 1969.

The Postmaster General filed a notice of intent January 3, 1969, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 38.88 cents per great circle aircraft mile for the transportation of mail by aircraft between Cedar City and Provo, Utah.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Aero-Commander Model 680 or Piper Turbo Aztec, both twin-engine aircraft equipped for all weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order<sup>1</sup> to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Hugh M. Lyman, Jr., doing business as Air Enterprises in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 38.88 cents per great circle aircraft mile between Cedar City and Provo, Utah.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f), *It is ordered, That:*

1. Hugh M. Lyman, Jr., doing business as Air Enterprises, the Postmaster General and all other interested persons are directed to show cause why the Board

should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Air Enterprises;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Hugh M. Lyman, Jr., doing business as Air Enterprises and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 69-1250; Filed, Jan. 29, 1969;  
8:48 a.m.]

[Docket No. 20159; Order 69-1-79]

## MOHAWK AIRLINES, INC.

## Order Setting Application for Hearing in Accordance With Subpart M Expedited Procedures

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 21st day of January, 1969.

By Order 68-9-173, September 30, 1968, the Board set for further proceedings pursuant to Rules 1306-1310 of the Board's procedural regulations the application of Mohawk Airlines, Inc. (Mohawk), for amendment of its certificate of public convenience and necessity for route 94 so as to provide subsidy ineligible nonstop service between Rochester, N.Y., and Washington, D.C.

United Airlines, Inc. (United), has filed an answer in opposition to the application, and Mohawk has filed a reply

to that answer. The New York State Department of Transportation filed an answer supporting Mohawk's application. The Rochester Chamber of Commerce filed a statement under Rule 14.

Upon consideration of the pleadings and all the relevant facts, we have determined to exercise our discretionary right in accordance with Rule 1311 of the Board's procedural regulations and direct that a hearing be held under the expedited procedures set forth in Rule 1312. Since this proceeding involves proposed new service by a local service carrier to a point served by several airports, the Board believes that additional information is needed to insure a complete record. Therefore, we shall direct that prior to the hearing Mohawk augment its existing exhibits to show alternatively the economic impact of providing its proposed service to Washington through Dulles International Airport and Washington National Airport.

*Accordingly, it is ordered, That:*

1. The application of Mohawk Airlines, Inc., in Docket 20159, be and it hereby is set for hearing before an Examiner of the Board at a time and place hereinafter designated;

2. Within 10 days after service of this order, Mohawk shall supplement its exhibits to demonstrate alternatively the economic impact on it of providing the service proposed herein through the Dulles International Airport and Washington National Airport; rebuttal exhibits, if any, shall be due within 17 days after service of this order; and

3. This order shall be served upon all parties served by Mohawk in its application.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] -HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 69-1251; Filed, Jan. 29, 1969;  
8:48 a.m.]

[Docket No. 20604]

## OLYMPIC AIRWAYS, S.A.

## Notice of Hearing

Application for permission to provide air transportation of passengers, cargo, and mail between a point or points in Greece and Chicago, Ill., via the intermediate point Montreal, Canada.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing on the above-entitled application is assigned to be held on January 31, 1969, at 10 a.m., e.s.t., in Room 630, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

<sup>1</sup> As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

Dated at Washington, D.C., January 24, 1969.

[SEAL]

ROBERT L. PARK,  
Hearing Examiner.

[F.R. Doc. 69-1252; Filed, Jan. 29, 1969;  
8:48 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 424]

### COMMON CARRIER SERVICES INFORMATION <sup>1</sup>

#### Domestic Public Radio Services Appli- cations Accepted for Filing <sup>2</sup>

JANUARY 27, 1969.

Pursuant to §§ 1.227(b) (3) and 21.26 (b) of the Commission's rules, and application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL]

BEN F. WAPLE,  
Secretary.

<sup>1</sup> All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

<sup>2</sup> The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

#### APPENDIX

#### APPLICATIONS ACCEPTED FOR FILING

#### DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

#### File No., applicant, call sign, and nature of application

- 4240-C2-P-69—Anserphone; (New); C.P. for a new one-way station to be located at No. 5 West Hargett Street, Raleigh, N.C., to operate on frequencies 152.24 and 158.70 MHz.
- 4241-C2-P-69—Tel-Page Corp.; (New); C.P. for a new one-way station to be located at Johnson Hill, Rutland, N.Y., to operate on frequency 152.24 MHz.
- 4242-C2-P-69—Tel-Page Corp.; (New); C.P. for a new two-way station to be located at 14 Lafayette Square, Buffalo, N.Y., to operate on base frequency 152.09 MHz.
- 4243-C2-P-69—Tel-Page Corp.; (New); C.P. for a new one-way station to be located at 14 Lafayette Square, Buffalo, N.Y., to operate on frequency 152.24 MHz.
- 4244-C2-P-69—Tel-Page Corp.; (New); C.P. for a new two-way station to be located at Sentinel Road, Lafayette, N.Y., to operate on frequency 152.21 MHz.
- 4245-C2-P-69—Tel-Page Corp.; (New); C.P. for a new one-way station to be located at Sentinel Road, Lafayette, N.Y., to operate on frequency 158.70 MHz.
- 4246-C2-P-69—General Telephone Co. of the Southwest; (New); C.P. for a new one-way station to be located at 2018 Highway 518, Kemah, Tex., to operate on 158.10 MHz.
- 4247-C2-P-69—Business Communications, Inc.; (KAA888); C.P. for an additional channel at 200 South Brentwood Boulevard, St. Louis, Mo., on base frequency 454.30 MHz.
- 4248-C2-P-69—Anserphone, Inc.; (KQK587); C.P. to change the antenna system at location No. 2: Off U.S. Highway No. 62, approximately 4 miles east of Warren, Ohio, operating on frequency 152.21 MHz.
- 4270-C2-P-69—General Telephone Co. of the Southwest; (KLB758); C.P. to change base frequency from 152.75 MHz to 152.66 MHz at station located at 3.6 miles west-northwest of Black River Village, N. Mex.
- 4271-C2-P/L-69—Allied Telephone Co. of Arkansas, Inc.; (New); C.P. and license for a new two-way station located on the west side of Highway No. 167, 3 miles south of Farindale, Ark.; to operate on base frequency 152.72 MHz. (These facilities were formerly authorized to: Allied Telephone Co.—KLB697.)
- 4290-C2-P-69—Mobilfone Corp.; (New); C.P. for a new one-way-signaling station. Frequency: 158.70 MHz. Location: 650 25th Avenue S.E., Minneapolis, Minn.
- 4291-C2-P-69—R. L. Mohr, doing business as Advanced Electronics; (KLF515); C.P. to change antenna system, replace base transmitter, and add 15F2 emission operating on 454.025 MHz at its station 6241 Monero Drive, Palos Verdes Estates, Calif.
- 4292-C2-P/L-69—Allied Telephone Co. of Arkansas, Inc.; (New); C.P. and license for a new two-way station located at intersection of State Highway No. 52 and U.S. Highway No. 165, north of Wilmet, Ark., to operate on base frequency 152.72 MHz. (These facilities were formerly authorized to: Allied Telephone Co.—KLB774.)
- 4293-C2-P/L-69—Allied Telephone Co. of Arkansas, Inc.; (New); C.P. and license for a new two-way station located near State Highway No. 41, 3.3 miles south-southeast of De Queen, Ark., to operate on base frequency 152.78 MHz. (These facilities were formerly authorized to: De Queen Telephone Co.—KLB683.)
- 4294-C2-P/L-69—Allied Telephone Co. of Arkansas, Inc.; (New); C.P. and license for a new two-way station located northeast corner of block at intersection of Main and Ash Streets, Elaine, Ark., to operate on base frequency 152.69 MHz. (These facilities were formerly authorized to: Rural Telephone Co., Inc.—KPF885.)
- 4299-C2-P-69—Ward H. Thompson; (New); C.P. for a new two-way station. Base frequency: 454.325 MHz. Location: 2 miles north of Lawrence Airport on county road-Mail Route No. 3, Lawrence, Kans. Applicant also requests authority to establish 20 dispatch stations pursuant to section 21.519(a) of FCC rules.
- 4200-C2-P-69—York Telephone & Telegraph Co.; (New); C.P. for a new one-way-signaling station. Frequency: 158.10 MHz. Location: East side of South Queen Street. Extension, 2.1 miles south of York, Pa.
- 4302-C2-P-69—Southwestern Bell Telephone Co.; (KKJ441); C.P. to add base frequency 152.72 MHz and replace transmitters for 152.57 and 152.81 MHz and change antenna system at location No. 2: 721 Beech Street, McAllen, Tex.

#### MAJOR AMENDMENT

- 2053-C2-P-69—McLean County Telephone Answering Service, Inc.; (New); Change frequency to read 158.70 MHz. All other particulars to remain the same as reported on public notice dated Oct. 7, 1968, Report No. 408, Page 8.
- 6458-C2-P-68—Whidbey Telephone Co.; (KOP303); Change frequency to read 35.62 MHz. All other particulars remain the same as reported on public notice dated July 8, 1968, Report No. 395, Page 1.

#### RURAL RADIO SERVICE

- 4272-C1-P-69—South Central Bell Telephone Co.; (KPP71); C.P. to change type transmitter operating on 459.65 MHz communicating with Station KPP66, Venice, La. Subscriber and location: Coast Guard, Head of Passes Light Station, approximately 2.8 miles south of Pilottown, La.
- 4273-C1-P-69—South Central Bell Telephone Co.; (KPP75); C.P. to change the type transmitter operating on 459.40 MHz communicating with Station KPP66, Venice, La. Subscriber and location: E. H. Shill, approximately 12.1 miles southeast of Pilottown, La.
- 4274-C1-P-69—South Central Bell Telephone Co.; (KZA54); C.P. to change the type transmitter operating on 459.40 MHz communicating with Station KPP66, Venice, La. Subscriber and location: New Orleans Big Game Fishing Club, approximately 12.1 miles southeast of Pilottown, La.
- 4275-C1-P/L-69—Pioneer Telephone Coop.; (New); C.P. and license for a new rural subscriber temporary fixed station with (5 units) in any temporary fixed location within the territory of applicant to operate on frequencies 158.04 and 158.07 MHz.

4276-C1-P/ML-69—Gulf Coast Telephone Co., Inc.; (KKR89); C.P. and modification of license to add frequency 459.60 MHz communicating with Station KKT88, at station located in the Gulf of Mexico, Platform E, lat. 28°56'03" N., long. 90°02'37" W.

4277-C1-P-69—Gulf Coast Telephone Co., Inc.; (New); C.P. for a new central-office fixed station to be located in the Gulf of Mexico, South Marsh Island area, Block 49, Platform A, to operate on frequency 454.50 MHz.

4278-C1-P-69—Gulf Coast Telephone Co., Inc.; (New); C.P. for a new central-office fixed station to be located in the Gulf of Mexico, Ship Shoal area, Block 207, Platform A, to operate on frequency 454.60 MHz.

4279-C1-P-69—Gulf Coast Telephone Co., Inc.; (New); C.P. for a new central-office fixed station to be located in the Gulf of Mexico, East Cameron area, Block 71, Platform A, to operate on frequency 454.60 MHz.

4295-C1-P-69—The Midland Telephone Co.; (New); C.P. for a new rural subscriber station to be located at Bull Frog Bay, Bull Frog Marina, Utah, to operate on frequency 157.77 MHz, communicating with Station KO515, Monticello, Utah.

Renewal of license expiring Nov. 1, 1968. Term: Nov. 1, 1968 to Nov. 1, 1973.

Hawaiian Telephone Co.----- KXR53 Hawaiian Telephone Co.----- KXR53

## POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

4199-C1-P-69—Estacada Telephone & Telegraph Co.; (New); C.P. for a new fixed station to be located at 1.75 miles west of Junction U.S.F.S. Road No. S344 and Highway No. 35, Mount Hood Meadows, Oreg., to operate on frequencies 10,935 and 11,075 MHz.

4200-C1-P-69—Estacada Telephone & Telegraph Co.; (New); C.P. for a new fixed station to be located near the junction of Crystal Springs Creek and East Fork Hood River, Mount Hood Meadows Village, Oreg., to operate on 11,285 and 11,925 MHz.

4280-C1-P-69—Southern Bell Telephone & Telegraph Co.; (KJA98); C.P. to change the antenna system located at Pine and Harlee Street, Marion, S.C., operating on frequencies 6189.8, 6388.1, and 6219.5 MHz toward Dillon, S.C.

4281-C1-P-69—Southern Bell Telephone & Telegraph Co.; (KJA99); C.P. to change the antenna system located at Harrison and Fourth Avenue, Dillon, S.C., operating on frequencies 5937.8 and 6056.4 MHz toward Marion, S.C.

Southern Bell Telephone & Telegraph Co.; Three (3) C.P.'s to add a second parabolic antenna and associated wave guide at Florida City and Rock Harbor and to make radiation polarization changes from Key West to Stock Island in the existing TD-2 radio relay system, as follows:

4282-C1-P-69—Southern Bell Telephone & Telegraph Co.; (KJ788); Frequencies: 3910 and 3990 MHz toward Rock Harbor, Fla. Station location: Approximately 9.5 miles southeast of Florida City, Fla.

4283-C1-P-69—Southern Bell Telephone & Telegraph Co.; (KIQ76); Frequencies: 3710, 3790, 3870, 3950, and 4030 MHz toward Upper Matecumbe, Fla., and 4110 and 4190 MHz toward Florida City, Fla. Station location: 0.3 mile north of Rock Harbor, Fla.

4284-C1-P-69—Southern Bell Telephone & Telegraph Co.; (KJ790); Frequencies: 4110 and 4190 MHz toward Stock Island, Fla. Station location: 530 Southard Street, Key West, Fla.

United Telephone Co. of Florida; Five (5) C.P.'s to provide and additional channel for one-way network video transmission on an existing route from Clewiston to Fort Myers, Fla., and to station WBBH-TV's studio location in Fort Myers, Fla., as follows:

4286-C1-P-69—United Telephone Co. of Florida; (KIP60); Add 10,915 MHz toward Fort Myers, Fla. (Station WBBH-TV), at station located at 1517 Jackson Street, Fort Myers, Fla.

4286-C1-P-69—(KIQ72); Add 6004.5 MHz toward Lehigh Acres, Fla., at station located at Fort Thompson Street, La Belle, Fla.

4287-C1-P-69—United Telephone Co. of Florida; (KGG30); Add 6256.5 MHz toward La Belle, Fla., at station located at Hendry, 15 miles west of Clewiston, Fla.

4288-C1-P-69—United Telephone Co. of Florida; (KIQ75); Add 6004.5 MHz toward Hendry, Fla., at station located at 113 Ventura Avenue, Clewiston, Fla.

4289-C1-P-69—United Telephone Co. of Florida; (KJC83); Add 6286.2 MHz toward Fort Myers, Fla., at station located at 539 Colorado Road, Lehigh Acres, Fla.

4197-C1-ML-69—The Pacific Telephone & Telegraph Co.; (KNE43); Modification of license to add frequencies 11,405 and 11,645 MHz toward Cima, Calif., and two T3 transmitters. All other terms of the existing license to remain the same.

## POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

4198-C1-P/ML-69—The Pacific Telephone & Telegraph Co.; (KZS24); Modification of license to add frequencies 10,715 and 10,955 MHz toward Kelso, Calif., and two T3 transmitters. All other terms of the existing license to remain the same. (Informative: To provide services previously authorized to American Telephone & Telegraph Co., under Call Signs KNE66 and KNE54 respectively.)

4298-C1-P-69—Southeastern Telephone Co.; (KIT39); C.P. to change and relocate the antenna system to Satellite Exchange Building, Eglin Air Force Base, Fla., operating on frequencies 5945.2 and 6063.8 MHz toward Gobbler Hill, Fla.

4297-C1-ML-69—American Telephone & Telegraph Co.; (KBD34); Modification of license to change frequencies from 6197.2 and 6315.9 MHz to 6256.5 and 6375.2 MHz toward Mansfield, Mo. All other terms of the existing license to remain the same.

4298-C1-ML-69—American Telephone & Telegraph Co.; (KBD36); Modification of license to change frequencies from 5945.2 and 6063.8 MHz to 6004.5 and 6123.8 MHz toward Goodhope, Mo. All other terms of the existing license to remain the same.

## MAJOR AMENDMENTS

2170-C1-P-69—California Interstate Telephone Co.; (New); Change frequency 2171.8 MHz toward Pine Grove, Nev., to 2178.0 MHz. Location: Yerington, Nev.

2171-C1-P-69—California Interstate Telephone Co.; (New); Change frequency 2111.0 MHz toward Pine Grove, Nev., to 2170.0 MHz. Location: Smith, Nev.

2172-C1-P-69—California Interstate Telephone Co.; (KJY68); Change frequency 2121.8 MHz toward Yerington, Nev., to 2128.0 MHz and change frequency 2161.0 MHz toward Smith, Nev., to 2120.0 MHz. Location: Pine Grove, 19.8 miles south of Yerington, Nev. All other particulars same as reported in public notice dated Oct. 21, 1968, Report No. 410.

2177-C1-P-69—Illinois Bell Telephone Co.; (KSN61); Change azimuth toward Ottawa, Ill., to: 244°7'.

2178-C1-P-69—Illinois Bell Telephone Co.; (New); Change station location to: 2.7 miles north-northeast of Ottawa at lat. 41°22'56" N., long. 88°51'20" W. Change azimuths toward La Salle, Norway, and Streator, Ill., to: 255°46', 63°59', and 135°47' respectively.

2179-C1-P-69—Illinois Bell Telephone Co.; (New); Change azimuth toward Ottawa, Ill., to 75°35'. All other particulars same as reported in public notice dated Nov. 12, 1968, Report No. 413.

[F.R. Doc. 69-1263; Filed, Jan. 29, 1969; 8:49 a.m.]

[Docket No. 18360]

## MODULATION MONITORS IN STANDARD BROADCAST AND FM BROADCAST STATIONS

## Type Approval of Radio Frequency Amplifiers; Order Extending Time for Filing Comments and Reply—Comments

In the matter of type approval of radio frequency amplifiers for modulation monitors in standard broadcast and FM broadcast stations, Docket No. 18360.

1. This proceeding was initiated by a notice of inquiry, adopted October 16, 1968, January 17, 1969, was set as the latest date on which comments might be filed, and February 17, 1969, as the deadline for reply comments.

2. In a petition filed on January 17, 1969, Electronic Industries Association

(EIA) requests that the closing date for comments in this proceeding be extended for 60 days. In support of this request, EIA states that the Broadcast Equipment Section of its Industrial Electronics Division is interested in the subject matter of this proceeding, but in order that the section may have an opportunity to fully study all of its technical aspects, and to insure that the comments EIA will file represent the broadly based views of its membership, an additional period of time is desired.

3. We believe that the considered views of EIA can contribute much to the satisfactory conclusion of this proceeding, and, in the light of the problems involved, the extension requested is not of excessive length. We therefore find it in the public interest to grant the EIA petition.

4. Accordingly, it is ordered, That the time for filing comments in this proceeding is extended from January 17, 1969, to

March 17, 1969, and the time for filing reply comments is extended from February 17, 1969, to April 17, 1969.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: January 23, 1969.

Released: January 24, 1969.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] GEORGE S. SMITH,  
Chief, Broadcast Bureau.

[F.R. Doc. 69-1254; Filed, Jan. 29, 1969;  
8:49 a.m.]

## FEDERAL HOME LOAN BANK BOARD

[H.C. No. 17]

### UNITED FINANCIAL CORPORATION OF CALIFORNIA

#### Notice of Receipt of Application for Permission To Acquire Cabrillo Savings and Loan Association

JANUARY 27, 1969.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the United Financial Corporation of California, Los Angeles, Calif., to acquire the Cabrillo Savings and Loan Association, Torrance, Calif., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(a)), and section 584.4 of the regulations for Savings and Loan Holding Companies (12 CFR 584.4). The proposed acquisition would be effected by the exchange of stock of the United Financial Corporation of California for the assets of Cabrillo Savings and Loan Association, which assets will be transferred to United Savings and Loan Association of California, a subsidiary of United Financial Corporation of California. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,  
Secretary.

[F.R. Doc. 69-1245; Filed, Jan. 29, 1969;  
8:48 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3909]

BSF CO.

#### Order Suspending Trading

JANUARY 24, 1969.

The capital stock (66½ cents par value) and the 5¾ percent convertible subordinated debentures due 1969 of BSF Co. being listed and registered on the American Stock Exchange, and such

capital stock being listed and registered on the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934; and all other securities of BSF Co. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in the said capital stock on such exchanges and in the debentures on the American Stock Exchange, and trading otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 25, 1969, through February 3, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 69-1235; Filed, Jan. 29, 1969;  
8:47 a.m.]

### CAPITOL HOLDING CORP.

#### Order Suspending Trading

JANUARY 24, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading otherwise than on a national securities exchange in the common stock and all other securities of Capitol Holding Corporation is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 25, 1969, through February 3, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 69-1236; Filed, Jan. 29, 1969;  
8:47 a.m.]

[File No. 1-2250]

### COMSTOCK-KEYSTONE MINING CO.

#### Order Suspending Trading

JANUARY 24, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Comstock-Keystone Mining Company, now known as Memory Magnetics International, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities

otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 26, 1969, through February 4, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 69-1237; Filed, Jan. 29, 1969;  
8:47 a.m.]

### ELECTROGEN INDUSTRIES, INC.

#### Order Suspending Trading

JANUARY 24, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Electro-Gen Industries, Inc. (formerly Jodmar Industries, Inc.) (may be known as American Lima Corp.), being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 27, 1969, through February 5, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 69-1238; Filed, Jan. 29, 1969;  
8:47 a.m.]

### MOONEY AIRCRAFT, INC.

#### Order Suspending Trading

JANUARY 24, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Mooney Aircraft, Inc. (a Kansas corporation), being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 26, 1969, through February 4, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 69-1239; Filed, Jan. 29, 1969;  
8:47 a.m.]

[File No. 1-3468]

### MOUNTAIN STATES DEVELOPMENT CO.

#### Order Suspending Trading

JANUARY 24, 1969.

The common stock, 1 cent par value, of Mountain States Development Co. being listed and registered on the Salt Lake

Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Mountain States Development Co. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 15(c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in such securities on the Salt Lake Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 25, 1969, through February 3, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-1240; Filed, Jan. 29, 1969;  
8:47 a.m.]

## UNITED AUSTRALIAN OIL, INC.

### Order Suspending Trading

JANUARY 24, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of United Australian Oil, Inc., Dallas, Tex., and all other securities of United Australian Oil, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 26, 1969, through February 4, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-1241; Filed, Jan. 29, 1969;  
8:47 a.m.]

## INTERSTATE COMMERCE COMMISSION

[Notice 1264]

### MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FOR- WARDER APPLICATIONS

JANUARY 24, 1969.

The following applications are governed by Special Rule 1.247<sup>1</sup> of the Com-

mission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d) (4) of the special rules, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 936 (Sub-No. 40), filed January 6, 1969. Applicant: VALLEY MOTOR LINES, INC., 1220 West Washington

Boulevard, Montebello, Calif. 90641. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives*, between points in California, Oregon, and Washington. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant did not specify location.

No. MC 2017 (Sub-No. 5), filed January 13, 1969. Applicant: BROWN'S TRUCKING CO., a corporation, 357 Pennsylvania Avenue, Beverly, N.J. 08010. Applicant's representative: Raymond A. Thistle, Jr., Suite 1710, 1500 Walnut Street, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from the plantsite of Hanscom Bros., Inc., located in Upper Merion Township, Montgomery County, Pa., to points in that part of New Jersey north of New Jersey Highway 33, Trenton, N.J., and New York, N.Y., and *refused, rejected, and damaged frozen bakery goods*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 5152 (Sub-No. 14), filed December 24, 1968. Applicant: VANCOUVER FAST FREIGHT, INC., 304 Columbia Street, Vancouver, Wash. 98660. Applicant's representative: William J. Lippman, 1824 R Street NW., Washington, D.C. 20009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shipping cartons*, other than corrugated, from Vancouver, Wash., to points in Oregon, Idaho, Gallatin County, Mont., and Weber and Salt Lake Counties, Utah; and (2) *pulpboard or paperboard*, in rolls or sheets, from Springfield, Oreg., to Vancouver, Wash. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Vancouver, Wash.

No. MC 5470 (Sub-No. 53), filed January 7, 1969. Applicant: TAJON, INC., Rural Delivery No. 5, Mercer, Pa. 16137. Applicant's representative: Don Cross, 917 Munsey Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals* in dump vehicles, between Oil City, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), points in New York on and east of U.S. Highway 15, and points in Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 17803 (Sub-No. 8), filed January 2, 1969. Applicant: PREMIER TRUCKING SERVICE CO., a corporation, 4440 Buckingham Avenue, Omaha, Nebr. 68107. Applicant's representative: Earl H. Scudder, Jr., 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate

<sup>1</sup> Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.



as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, pelts, chromes and pieces therefrom*, (1) from points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota to points in Connecticut, Illinois, Kentucky, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin; (2) from points in Minnesota, to points in Iowa, Nebraska, and Kansas; (3) from points in Iowa to points in Nebraska, Minnesota, and Kansas; (4) from points in Nebraska to points in Iowa, Minnesota, and Kansas; and (5) from points in Kansas to points in Nebraska, Iowa, and Minnesota. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 17867 (Sub-No. 5), filed January 2, 1969. Applicant: MERLON J. BRENAMAN, doing business as BRENAMAN AND SON, Post Office Box 9, Chariton, Iowa 50049. Applicant's representative: Kenneth F. Dudley, 901 South Madison Avenue, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sewage disposal equipment*, from Chariton, Iowa, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Kansas City, Mo.

No. MC 31220 (Sub-No. 25), filed January 13, 1969. Applicant: DANIELS MOTOR FREIGHT, INC., Eazor Square, Pittsburgh, Pa. 15201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Ebensburg, Pa., and Columbus, Ohio, as follows: From Ebensburg, Pa., over U.S. Highway 22 to junction U.S. Highways 22 and 119 near New Alexandria, Pa., thence over U.S. Highway 119 to junction Interstate Highway 70, thence over Interstate Highway 70 to Wheeling, W. Va., thence over U.S. Highway 40 to Columbus, and return over the same routes, serving no intermediate points and serving Ebensburg, Pa., and Columbus, Ohio, as points of joinder only; (2) between the junction of U.S. Highways 422 and 224 near New Castle, Pa., and Akron, Ohio, as follows: From junction U.S. Highways 422 and 224 near New Castle, Pa., over U.S. Highway 224 and return over the same routes,

serving no intermediate points and serving the junction of U.S. Highways 422 and 224 and Akron, Ohio, as points of joinder only; (3) between junction Ohio Highway 46 and Interstate Highway 90 and junction Interstate Highway 71 and U.S. Highway 224 near Leroy, Ohio, as follows: From junction Ohio Highway 46 and Interstate Highway 90 over Interstate Highway 90 to Cleveland, Ohio, thence over Interstate Highway 71, and return over the same routes, serving no intermediate points, and serving the junction of Ohio Highway 46 and Interstate Highway 90 and the junction of Interstate Highway 71 and U.S. Highway 224 as points of joinder only.

(4) Between Ebensburg, Pa., and junction of Interstate Highway 71 and U.S. Highway 30 as follows: From Ebensburg, Pa., over U.S. Highway 22 to Pittsburgh, Pa., thence over U.S. Highway 30, and return over the same routes, serving Ebensburg, Pa., and the junction of Interstate Highway 71 and U.S. Highway 30 as points of joinder only; (5) between Ebensburg, Pa., and junction of Ohio Highways 5 and 14 as follows: From Ebensburg, Pa., over U.S. Highway 22 to Pittsburgh, Pa., thence over Pennsylvania Highway 65 to junction Pennsylvania Highway 51, thence over Pennsylvania Highway 51 to the Pennsylvania-Ohio State Line, thence over Ohio Highway 14 to junction Ohio Highway 14A, thence over Ohio Highway 14A to Deerfield, Ohio, thence over Ohio Highway 14, and return over the same routes, serving no intermediate points, and serving Ebensburg, Pa., and the junction of Ohio Highways 5 and 14 as points of joinder only; (6) between junction of Ohio Highway 46 and Interstate Highway 90 and junction of U.S. Highway 6 and U.S. Highway 20 as follows: From junction of Ohio Highway 46 and Interstate Highway 90 over Interstate Highway 90 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 6 and U.S. Highway 20, and return over the same routes, serving no intermediate points, and serving the junction of Ohio Highway 46 and Interstate Highway 90 and the junction of U.S. Highway 6 and U.S. Highway 20 as points of joinder only; and (7) between Pittsburgh, Pa., and Columbus, Ohio, as follows: From Pittsburgh, Pa., over U.S. Highway 19 to junction Interstate Highway 70, thence over Interstate Highway 70 to Wheeling, W. Va., thence over U.S. Highway 40 to Columbus, Ohio, and return over the same routes, serving no intermediate points and serving Columbus, Ohio, as a point of joinder only. Service restricted to traffic moving between Pittsburgh, Pa., on the one hand, and, on the other, points in Illinois and Indiana and St. Louis, Mo.; as alternate routes for operating convenience only. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 37544 (Sub-No. 1), filed December 19, 1968. Applicant: FASCO MOTOR EXPRESS, INC., 2000 St. Clair Avenue, East St. Louis, Ill. 66205. Applicant's representative: George C. Ander-

son (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Palestine, Ill., and Evansville, Ind., from Palestine over Illinois Highway 33 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 41, thence over U.S. Highway 41 to Evansville, and return over the same route, serving the intermediate points of Heathsville and Russellville, Ill., and Vincennes, Ind., and the off-route point of Richwoods, Ill. Restriction: Service at Evansville, Ind., is restricted against traffic moving to or from Vincennes, Ind. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or Indianapolis, Ind.

No. MC 77404 (Sub-No. 19), filed January 13, 1969. Applicant: MOHAWK MOTOR, INC., 733 North Sandusky Street, Tiffin, Ohio 44883. Applicant's representative: Taylor C. Burneson, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving the plantsite of Essex Wire Corp., located in Whitley County, Ind. (south of U.S. Highway 30), as an off-route point in connection with applicant's authorized regular-route operations to and from Fort Wayne, Ind. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Indianapolis, Ind.

No. MC 80430 (Sub-No. 129), filed December 30, 1968. Applicant: GATEWAY TRANSPORTATION CO., INC., 2130 South Avenue, La Crosse, Wis. 54601. Applicant's representatives: Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20004, and Joseph E. Ludden (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities injurious or contaminating to other lading, and those requiring special equipment) (1) between Detroit, Mich., and the port of entry on the international boundary line between the United States and Canada located at or near Port Huron, Mich., over Interstate Highway 94 (also from Detroit over U.S. Highway 25 to junction Interstate Highway 94, thence over Interstate Highway 94 to the port of entry on the international boundary line between the United States and Canada located at or near Port Huron, Mich., and return over the same route), as alternate routes for operating convenience

only, (2) between Flint, Mich., and the port of entry on the international boundary line between the United States and Canada located at or near Port Huron, Mich., over Michigan Highway 21, as an alternate route for operating convenience only. Restriction: (1) No service is authorized at intermediate points, or at Port Huron, Mich.; and (2) service is limited to the transportation of shipments moving to, from, or through points in the United States located east of the Niagara River. NOTE: Applicant states it now has authority to serve Detroit, Mich., and its vehicles are authorized to enter and leave Canada at that border point in moving between Michigan points and upstate New York points. Under this application, the basic authority sought is for an alternate port of entry, namely, Port Huron, Mich. As such, this application is analogous to an alternate route or gateway elimination proposal. Upon grant of the authority sought, applicant's vehicles operating through Canada would be authorized to enter the United States at either Detroit or Port Huron. When entering the United States at Port Huron, the authority sought herein would permit the vehicles to proceed over the proposed route to Detroit or to Flint, Mich. Applicant now holds authority to serve both Detroit and Flint, Mich., as regular route points in the transportation of general commodities with the usual exceptions. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Detroit, Mich.

No. MC 94350 (Sub-No. 209), filed December 23, 1968. Applicant: TRANSIT HOMES, INC., Haywood Road, Post Office Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements in truckaway service, (a) from points in Prairie County, Ark., to points in the United States (except Flint, Detroit, and Mount Clemens, Mich., Alaska and Hawaii), and (b) from points in Crittenden County, Ark., to points in the United States (except Flint, Detroit, and Mount Clemens, Mich., Alaska and Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 94350 (Sub-No. 210), filed January 10, 1969. Applicant: TRANSIT HOMES, INC., Haywood Road at Transit Drive, Post Office Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Trailers* designed to be drawn by passenger automobiles in initial movements, from Claiborne Parish, La., to points in the United States (excluding Flint, Mount Clemens, and Detroit, Mich., and also Alaska and Hawaii), and (b) *portable buildings* in sections, traveling

on their own or removable undercarriages which are joined together to form a complete structure, from Claiborne Parish, La., to points in the United States (excluding Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport, La.

No. MC 99149 (Sub-No. 6) (CORRECTION), filed November 27, 1968, published FEDERAL REGISTER, issue of January 16, 1969, and republished in part as corrected this issue. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 822 East Sixth Street, Little Rock, Ark. 72201. Applicant's representative: Charles J. Lincoln, 1550 Tower Building, Little Rock, Ark. 72201. The purpose of this republication in part is to show Item 5 from Kirby, Ark., and the junction of Arkansas State Highway 27 and U.S. Highway 71, from Kirby over Arkansas State Highway 27 to the junction of Arkansas State Highway 27 and U.S. Highway 71, serving all intermediate points. The italic part was inadvertently omitted. The rest of the application remains the same.

No. MC 102616 (Sub-No. 830), filed January 10, 1969. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. 17405. Applicant's representative: Harold G. Hernly, 711 14th Street NW, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide slurry*, in bulk, from Baltimore, Md., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. 102982 (Sub-No. 15), filed January 8, 1969. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, Ohio 44312. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe, conduit, metallic tubing, and fittings therefor*, unloaded by mechanical devices furnished by the carrier, from Ambridge and New Kensington, Pa., and Niles, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, South Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, Missouri, Minnesota, Georgia, Florida, and the District of Columbia, under contract with Jones & Laughlin Steel Corp., and H. K. Porter Co., Inc. NOTE: Applicant holds common carrier authority under MC 125533. If a hearing is

deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 103552 (Sub-No. 8), filed December 31, 1968. Applicant: THE FARER TRANSPORTATION COMPANY, a corporation, 15 West Dover Street, Waterbury, Conn. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Advertising matter, books, magazines, periodicals, song sheets, sheet music, comics, comic sheets, and shopping news*, between Kingston, Beacon, Newburgh, Peekskill, and Poughkeepsie, N.Y., on the one hand, and, on the other, New York, Mount Vernon, and Pelham, N.Y., points in Nassau, Suffolk, and Westchester Counties, N.Y. Bridgeport, Hartford, Meriden, New Britain, New Haven, and Waterbury, Conn., and points in Connecticut on and west of the east bank of the Connecticut River, and Springfield, Mass. NOTE: Applicant indicates tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 103654 (Sub-No. 143), filed December 26, 1968. Applicant: SCHIRMER TRANSPORTATION COMPANY, INCORPORATED, 1145 Homer Street, St. Paul, Minn. 55116. Applicant's representative: Grant J. Merritt, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nitric acid*, in bulk, from Barksdale, Wis., to points in Minnesota and Michigan; (2) *sulphur*, in bulk, from Minneapolis and St. Paul, Minn., and 10 miles thereof to points in Illinois, Indiana, Iowa, Michigan, and Wisconsin; (3) *cement*, from the plantsite and/or storage facilities of Dewey Portland Cement Co., at or near Davenport, Iowa, to points in Iowa; (4) *petroleum products*, in bulk, from McGregor, Minn., and points within 5 miles thereof to points in North Dakota and Wisconsin; and (5) *petroleum products*, in bulk, from Milwaukee, Wis., to Minneapolis, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 105457 (Sub-No. 64), filed January 13, 1969. Applicant: THURSTON MOTOR LINES, INC., 601 Johnson Road, Post Office Box 10638, Charlotte, N.C. 28201. Applicant's representative: J. V. Luckadoo (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition boards and materials and accessories* used in installation thereof, from points in Henry County, Tenn., to points in Alabama, Georgia, Florida, Mississippi, Louisiana, North Carolina, South Carolina, and Virginia; and (2) *material* used in the manufacture and distribution of composition boards, (except in bulk), from points in (1) above, to points in Henry County, Tenn. NOTE: Applicant states it now holds common carrier authority over various regular and irregular routes under its MC-105457 Subs 19,

44, 47, and 60 to serve between points in Tennessee, Georgia, South Carolina, North Carolina, Virginia, and Russell County, Ala. This authority authorizes service between points in Henry County, Tenn., on the one hand, and, on the other, points in Georgia, South Carolina, North Carolina, Virginia, and Russell County, Ala., by observing various gateways. The purpose of this application is to secure authority to and from the additional States named, and to eliminate the existing gateways when on the commodities named herein. Applicant further states no duplicate authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Atlanta, Ga.

No. MC 106398 (Sub-No. 384), filed January 3, 1969. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles and *buildings in sections* equipped with hitchball connector, from points in Chaves County, N. Mex., to points in the United States (except Alaska and Hawaii). Note: Common control and dual authority may be involved. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 106644 (Sub-No. 92), filed January 7, 1969. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Atlanta, Ga. 30321. Applicant's representative: Guy H. Postell, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit, pipe, tubing, and fittings and accessories, therefor*, from points in Early County, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Note: Applicant indicates tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 107295 (Sub-No. 156), filed December 26, 1968. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Post Office Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubular steel products and building products*, from Akron, Ohio, to points in the United States in and east of the States of Montana, Wyoming, Colorado, and New Mexico. Notes: Applicant states that tacking could take place in conjunction

with its present authority in MC 107295 when feasible. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 107295 (Sub-No. 157), filed January 6, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Post Office Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Planks or slabs, concrete, wire reinforced; planks or slabs, wood and cement combined; including accessories and parts incidental to the completion, erection, and installation thereof*, from points in Erie County, N.Y., and Elberton, Ga., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. Note: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 107295 (Sub-No. 158), filed January 8, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox, Post Office Box 146, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished wall paneling*, from Charlotte, N.C., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Alaska and Hawaii). Note: If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 107295 (Sub-No. 159), filed January 9, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representatives: Dale L. Cox, Post Office Box 146, Farmer City, Ill. 61842, and Mack Stephenson, 301 Building, 301 North Second Street, Springfield, Ill. 62702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, door sections, component parts, materials, supplies and fixtures, and accessories incidental to completion, erection and installation thereof*, from Columbus, Ohio, to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Arkansas, Missouri, Iowa, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Michigan, and Ohio, Alaska and Hawaii). Note: Applicant states it will tack the sought authority with MC-107295 when feasible. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 107295 (Sub-No. 161), filed January 7, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representatives: Dale L. Cox, Post Office Box 146, Farmer City, Ill. 61842, and Mack Stephenson, 301 Building, 301 North Second Street, Springfield, Ill. 62702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from Mattoon, Wis., to points in Iowa,

Missouri, Arkansas, Illinois, Indiana, Kentucky, Tennessee, Michigan, Ohio, and Minnesota. Note: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 107403 (Sub-No. 766), filed January 8, 1969. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Baton Rouge, La., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. Note: If a hearing is deemed necessary applicant request it be held at New Orleans, La., or Washington, D.C.

No. MC 107515 (Sub-No. 633), filed January 2, 1969. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Saugatuck, Mich., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plants of Michigan Lloyd J. Harris Pie Co., and destined to the States named. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 111729 (Sub-No. 275), filed December 26, 1968. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Commonwealth Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records and audit and accounting media of all kinds, and advertising literature moving therewith*, (a) between Sandusky, Ohio, on the one hand, and, on the other, points in Michigan; (b) between Chicago, Ill., and Van Wert, Ohio; (c) between New York, N.Y., on the one hand, and, on the other, points in Connecticut (except points in Hartford, Middlesex and New Haven Counties, and Bridgeport and Waterford, Conn.); Delaware (except New Castle County, Del.); Maine (except Searsport and South Portland, Maine); Maryland (except Baltimore and East Brooklyn, Md.); Massachusetts (except Chicopee Falls, Fall River, Waltham, and Worcester, Mass.); New Hampshire (except Hillsboro County, N.H.); New Jersey (except Newark and points in Bergen, Middlesex, and Morris Counties, N.J.); Pennsylvania (except points in Bucks, Delaware, Montgomery and Philadelphia Counties, Pa.); Rhode Island; Vermont; Virginia (except Springfield, Va.); and Washington, D.C.; (d) between points in Bergen County, N.J., on the one hand, and, on the other, points in Delaware;



Maine; New Hampshire; Vermont; and Virginia.

(e) Between points in Bergen County, N.J. (except Carlstadt, N.J.), on the one hand, and, on the other, points in Connecticut; Maryland; Massachusetts; New York (except Great Neck, N.Y.); Pennsylvania (except Philadelphia, Pa.); Rhode Island, and Washington, D.C.; (f) between Clarksburg, W. Va., and Tiffin, Ohio; and (g) between Garden City, N.Y., and Englewood Cliffs, N.J.; (2) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theater and television exhibition), (a) between Mansfield, Ohio, on the one hand, and, on the other, points in Michigan (except Detroit, Mich.); and (b) between Charlotte, N.C., on the one hand, and, on the other, points in Virginia; (3) *radiopharmaceuticals, radioactive drugs, and medical isotopes*, between North Chicago, Ill., on the one hand, and, on the other, points in Ohio; and (4) *vinyl coated fabric samples*, restricted against the transportation of packages or articles weighing in the aggregate more than 90 pounds from one consignor to one consignee on any one day, between Sandusky, Ohio, on the one hand, and, on the other, points in Michigan. NOTE: Applicant states, with respect to parts 1(c), 1(e), and 2(a) above, applicant has deleted certain specified points from instant application because it has already been granted the following subnumbers by the Commission, in Docket No. MC-111729: Subs 31, 53, 80, 110, 151, 163, 168, 175, 195, 231, 243, 253, 256TA, 267TA, and 155, respectively. Applicant further states it intends to tack the sought authority with its presently authorized common carrier authority. Applicant holds contract carrier authority under MC-112750 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or New York, N.Y.

No. MC 112520 (Sub-No. 193), filed January 10, 1969. Applicant: MCKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous hydrogen chloride*, in shipper-owned trailers, from Deer Park, Tex., to Gonzalez, Fla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 112750 (Sub-No. 265), filed December 30, 1968. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities)

as are used in the business of banks and banking institutions, (1) between points in Virginia, on the one hand, and, on the other, points in North Carolina; (except between Richmond, Va., on the one hand, and, on the other, points in Alamance, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Mecklenburg, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Robeson, Sampson, Scotland, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson Counties, N.C.); (2) between Pensacola, Fla., on the one hand, and, on the other, points in Baldwin, Butler, Conecuh, Covington, Crenshaw, Escambia, Geneva, Jefferson, Mobile (except Mobile, Ala.), Monroe, and Montgomery Counties, Ala.; and (3) between Tallahassee, Fla., on the one hand, and, on the other, points in Georgia, on and south of U.S. Highway No. 80, running east and west from Savannah to the Florida-Georgia State line, including Richmond, Fulton, and De Kalb Counties, Ga.; under contract with banks and banking institutions. NOTE: Applicant holds common carrier authority in MC-111729 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Atlanta, Ga.

No. MC 113267 (Sub-No. 208), filed January 9, 1969. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from St. Joseph, Mo., to points in Kentucky, Tennessee, Mississippi, Louisiana, Alabama, Florida, Georgia, North Carolina, and South Carolina. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 113280 (Sub-No. 4), filed December 23, 1968. Applicant: GILBERT BUCHMEIER, doing business as BUCHMEIER & SONS, 2988 Skyline Drive, Route 1, Hubertus, Wis. 53033. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, premiums, and malt beverages dispensing equipment when shipped with malt beverages*, from St. Louis, Mo., to Watertown, Wis.; under a continuing contract, or contracts, with Schuppert Distributing Co., Inc., of Watertown, Wis. NOTE: If a hearing

is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 113325 (Sub-No. 130), filed January 2, 1969. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Mo. 63104. Applicant's representative: T. M. Tahan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ethylene gas* in shipper-owned equipment, from the plantsite of U.S. Industries at Tuscola, Ill., to the plantsite of Monsanto Co. at St. Louis, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 113974 (Sub-No. 30), filed January 2, 1969. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, Pa. 15034. Applicant's representative: W. H. Schlottman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials and composition boards, and articles used or useful in the installation thereof* (except commodities in bulk), from Carteret and Edgewater, N.J.; Philadelphia, Pittston, and Sunbury, Pa., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and West Virginia, and (2) *returned shipments* of the above commodities in the opposite direction. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113974 (Sub-No. 31), filed December 26, 1968. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, Pa. 15034. Applicant's representative: W. H. Schlottman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, which are unloaded by carrier's mechanical unloading device, (1) from Ambridge and New Kensington, Pa.; Niles, Ohio; and Glendale, W. Va., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan; New York, North Carolina, South Carolina, Tennessee, Virginia, the District of Columbia, and St. Louis, Mo. (2) from Ambridge and New Kensington, Pa.; and Glendale, W. Va., to points in Ohio and (3) from Ambridge and New Kensington, Pa.; and Niles, Ohio to points in West Virginia. NOTE: Applicant states it would connect at any of the origin points to serve origin points in Pennsylvania, Ohio, and West Virginia within 125 miles of Wheeling, W. Va. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 114533 (Sub-No. 181), filed January 6, 1969. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, Ill. 60606. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Audit media and other business records*, (1) between Waukegan, Ill., on the one hand, and, on the other, Indianapolis and Richmond, Ind., and (2) between Milwaukee, Wis., on the one hand, and, on the other, Lombard, Ill. NOTE: Common control may be involved. Applicant has pending contract carrier authority in MC 128616, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 114632 (Sub-No. 15), filed January 2, 1969. Applicant: APPLE LINES, INC., 225 South Van Epps, Madison, S. Dak. 57042. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) (1) from the plantsite of Rod Barnes Packing Co., Huron, S. Dak., to points in Minnesota, Wisconsin, Illinois, Kansas, and Missouri, (2) from the plantsite of Geo. A. Hormel & Co., Mitchell, S. Dak., to points in Missouri and Kansas and (3) from the plantsite and/or warehouse facilities of Geo. A. Hormel & Co., Austin, Minn., to points in Kansas and Missouri (except St. Louis). NOTE: Applicant holds a pending contract carrier authority under MC 129706. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., Sioux Falls, S. Dak., or Omaha, Nebr.

No. MC 115826 (Sub-No. 188), filed January 6, 1969. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Indiana to points in Wyoming, Montana, Idaho, Oregon, and Washington. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 115841 (Sub-No. 340), filed January 10, 1969. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Hudson, Dutchess, and Ulster Counties, N.Y., to points in Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Kentucky, Mississippi, Louisiana, Arkansas, Texas, and Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Washington, D.C., or Birmingham, Ala.

No. MC 116077 (Sub-No. 257), filed

January 2, 1969. Applicant: ROBERTSON TANKLINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, from Baton Rouge, La., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 116645 (Sub-No. 11), filed January 13, 1969. Applicant: DAVIS TRANSPORT CO., a corporation, Post Office Box 56, Gilcrest, Colo. 80623. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Starch, edible syrup, and sugar, including blends of edible syrup and sugar*, in bulk, between points in Colorado, on the one hand, and, on the other, points in Nebraska, Kansas, Oklahoma, and Colorado; restricted against the transportation of sugar, from Rocky Ford and Swink, Colo., to points in Nebraska, Kansas, and Oklahoma. NOTE: Common control may be involved. Applicant states no duplication authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 117765 (Sub-No. 73), filed December 24, 1968. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth Street, Post Office Box 75267, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages*, carbonated and non-carbonated in containers, from Ottumwa, Iowa, to points in Oklahoma. NOTE: Applicant states that tacking is possible at Muskogee, Okla., for points in New Mexico and Texas in connection with its present authority in MC 117765 Sub 45, and points in Muskogee County, Okla., to points in Louisiana, in connection with its present authority in MC 117765 Sub 59. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 117851 (Sub-No. 3), filed January 6, 1969. Applicant: JOHN R. CHEESEMAN, 501 North First Street, Fort Recovery, Ohio 45846. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brass plumber's fittings; steel plumber's fittings; brass pipe and/or tube; brass pipe connections, metal curtain rods or poles; brass hand pumps*; in fiber boxes, from the plantsite of Bridgeport Brass Co., located at or near Moultrie, Ga., to points in Illinois, Indiana, Kentucky, Ohio, and Wisconsin, under a continuing contract with Bridgeport Brass Co. of Moultrie, Ga. NOTE: If a hearing is

deemed necessary, applicant requests it to be held at Columbus, Ohio.

No. MC 117883 (Sub-No. 118), filed January 8, 1969. Applicant: SUBLER TRANSFER, INC., East Main Street, Post Office Box 62, Versailles, Ohio 45380. Applicant's representative: Kenneth Subler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from Ottumwa, Iowa, to points in Ohio, Pennsylvania, Michigan, New York, Maryland, the District of Columbia, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, West Virginia, New Jersey, and Delaware. NOTE: If a hearing is deemed necessary, applicant did not specify location.

No. MC 118130 (Sub-No. 60) (Clarification), filed September 27, 1968, published in the FEDERAL REGISTER issues of November 21, 1968, and December 19, 1968, and republished as clarified this issue. Applicant: BEN HAMRICK, INC., 740 North Houston, Fort Worth, Tex. 76115. Applicant's representative: Marion F. Jones, Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, from Chetopa, Kans.; Baron, Sallisaw and Coalgate, Okla.; Lehigh, N. Dak., and points within 5 miles thereof, to points in the United States (except Alaska and Hawaii and New York). NOTE: The purpose of this republication is to delete Attorney David D. Brunson's name and reflect that of Marion F. Jones as the sole representative. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., Oklahoma City, Okla., or New Orleans, La.

No. MC 118282 (Sub-No. 19), filed December 30, 1968. Applicant: JOHNNY BROWN'S, INC., 6801 Northwest 74th Avenue, Miami, Fla. 33166. Applicant's representative: Guy H. Postell, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* as defined by the Commission in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209, 279, (2) *new furniture* (uncrated) as defined by the Commission in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 279, (3) *carpets and carpeting*, (4) *tools*, for use in installing furnishings in (2) and (3) above, (5) *new furniture*, crated, and (6) the transportation of *commodities* named in (1) thru (5) above when moving in the same vehicle with commodities exempt under the provisions of section 203(b) (6) of the Act, from points in Dade County, Fla., to points in Alabama, Arkansas, Con-

necticut, Delaware, Florida, Georgia (except Atlanta), Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, New York, New Jersey, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee (except Chattanooga and Nashville), Texas, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant holds contract carrier authority in MC-125811 (Sub-No. 5), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., or Atlanta, Ga.

No. MC 118457 (Sub-No. 7), filed January 6, 1969. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 300 Dodge Street, Racine, Wis. 53402. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pizza*, from Chicago Heights, Ill., to points in Indiana, Ohio, and the Lower Peninsula of Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 118884 (Sub-No. 3), filed January 13, 1969. Applicant: RELIABLE MACHINERY HAULERS, INC., 1222 Waynesburg Drive SE, Canton, Ohio 44707. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plant or warehouse sites of Continental Steel Corp., located in Howard County, Ind., to points in the United States, on and east of U.S. Highway 85; and (2) *equipment, materials, and supplies*, used in the manufacture and processing of iron and steel articles, from points in the United States on and east of U.S. Highway 85 to the plant or warehouse sites of Continental Steel Corp., located in Howard County, Ind., restricted to traffic originating at or destined to the named origins and destinations in (1) and (2) above and further restricted against the transportation of commodities in bulk. NOTE: If a hearing is deemed necessary, applicant did not specify location.

No. MC 118959 (Sub-No. 40), filed January 8, 1969. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Alton, Ill., and its commercial zone to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, Tennessee, and Texas. NOTE: Applicant holds contract carrier authority under MC 125664, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119399 (Sub-No. 21), filed January 8, 1969. Applicant: CONTRACT FREIGHTERS, INC., 3105 East Seventh Street, Joplin, Mo. 64801. Applicant's representative: Roy F. Reed (same address

as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer compounds, and fertilizer materials*, from Wichita, Kans., to points in Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Kansas City, Mo.

No. MC 119531 (Sub-No. 105), filed January 6, 1969. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass products*, from Carteret and Jersey City, N.J., and Washington, Pa., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and West Virginia and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of glass products, on return. NOTE: Applicant states possible tacking exists at Lapel, Ind., to serve points in Iowa, Minnesota, and Wisconsin with its MC 119531. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 119531 (Sub-No. 106), filed January 7, 1969. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard cans, and component parts thereof*, from Bradford, Pa., to points in Illinois, Michigan, New Jersey, New York, and Ohio, and, *returned or rejected shipments* of the above-specified commodities, from above-described destination points, to Bradford, Pa. NOTE: Applicant states a possible tack would exist at Chicago, Ill., to serve points in Missouri and Wisconsin, with MC-119531 (Sub-No. 21), and that this possible extension not supported in this application. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123085 (Sub-No. 3), filed January 10, 1969. Applicant: J. RINDNER TRUCKING CORP., 451 East Chester Street, Long Beach, N.Y. Applicant's representatives: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, and Douglas Miller, Meadowbrook Bank Building, Malverne, N.Y. 11565. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by an importer of billiard supplies and billiard table parts*, between Oceanside, N.Y., on the one hand, and, on the other, points in New York, N.Y., harbors and harbors contiguous thereto, as defined in 49 CFR 1070.1. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 123797 (Sub-No. 2), filed January 10, 1969. Applicant: THEODORE PACHIOS, doing business as ATLANTIC INTERSTATE MESSENGERS, 165 Ma-

son Street, Greenwich, Conn. 06830. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in packages and parcels not exceeding 75 pounds each in weight, limited to shipments weighing in the aggregate not more than 500 pounds from one consignor at one location to one consignee at one location at any one time, between points in Fairfield County, Conn., on the one hand, and, on the other, points in Massachusetts, New Jersey, Rhode Island, Vermont, Connecticut, Delaware, Maine, Maryland, New Hampshire, New York, Pennsylvania, and the District of Columbia, restricted against the transportation of (1) nonnegotiable instruments, commercial papers, cash letters, and checks moved therewith on behalf of banks and banking institutions, (2) negotiable instruments, currency, or bullion, and (3) classes A and B explosives. NOTE: Applicant states it proposes to tack at points in Fairfield County, Conn., to its presently held authority wherein it is authorized to conduct operations in the States of Massachusetts, New Jersey, Rhode Island, Pennsylvania, New York, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or New Haven, Conn.

No. MC 124324 (Sub-No. 15), filed January 3, 1969. Applicant: MURPHY TRUCKING CO., INC., Post Office Box 65, Peru, Ind. Applicant's representative: Alki E. Scopelitis, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, (1) from points in Ohio to Castleton, Ind., and (2) from Castleton, Ind., to points in Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 127651 (Sub-No. 6), filed January 2, 1969. Applicant: EVERETT ROEHL, 201 West Upham Street, Marshfield, Wis. 54449. Applicant's representative: Nancy J. Johnson, 111 South Fairchild Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood pallets*, on flatbed equipment, from points in Wisconsin to points in Illinois, Iowa, and Minnesota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 127834 (Sub-No. 24), filed December 30, 1968. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Signs and parts and accessories thereof*, from Knoxville, Tenn., to points in Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New

Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 127834 (Sub-No. 26), filed January 8, 1969. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products and accessories* used in the installation thereof, from Knoxville, Tenn., to points in Kentucky, Ohio, and Virginia. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 128270 (Sub-No. 4), filed January 2, 1969. Applicant: REDIEHS INTERSTATE, INC., 7869 Melton Road, Gary, Ind. 46403. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plant or warehouse sites of Continental Steel Corp., located in Howard County, Ind., to points in the United States on and east of U.S. Highway 85; and (2) *materials, equipment, and supplies*, used in manufacture and processing of iron and steel articles, on return, restricted to traffic originating at or destined to the named origins and destinations in (1) and (2) above, and restricted against the transportation of commodities in bulk. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128729 (Sub-No. 1), filed January 13, 1969. Applicant: DOMINICK GIANNINI, 3016 Memphis Street, Philadelphia, Pa. 19134. Applicant's representative: Raymond A. Thistle, Jr., Suite 1710, 1500 Walnut Street, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats*, from points in Nebraska and points in that part of Iowa west of U.S. Highway 69 to Philadelphia, Pa.; under contract with A. Servetnick & Sons. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 128733 (Sub-No. 4), filed January 2, 1969. Applicant: W & W FEED SERVICE, INC., Box 310, Arlington, Tenn. 38002. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (except fats and oils), from points in Shelby County, Tenn., to points in Arkansas, Mississippi, and Missouri, for the account of The Quaker Oats Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 133027 (Sub-No. 2), filed January 8, 1969. Applicant: FRANK MOLICA, doing business as B & M TRUCKING COMPANY, 5033 16½ Street, Reading, Pa. 19606. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paper, corrugated paperboard, corrugated paper products, and corrugated paperboard products*, between Milltown, N.J., on the one hand, and, on the other, Newark and Wilmington, Del., Baltimore, Md., New York, N.Y., points in Delaware County, N.Y., and points in Pennsylvania on and east of Interstate Highway 83 from the Maryland State line to Harrisburg, and on and east of Interstate Highway 81 from Harrisburg to the New York State line, under contract with Middlesex Container Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133338 (Sub-No. 2), filed January 5, 1969. Applicant: MICHAEL JANKIELWICS AND JUREK GIVNER a partnership, doing business as J & G GENERAL TRUCKING, 302 Avenue C, Brooklyn, N.Y. 11218. Applicant's representative: George Chernoff, 295 Madison Avenue, New York, N.Y. 10017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Groceries*, from New York, N.Y., to points in Fairfield and New Haven Counties, Conn., and Bergen, Essex, and Passaic Counties, N.J., under contract with Bernice Foods, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133377 (Sub-No. 2), filed January 6, 1969. Applicant: COMMERCIAL SERVICES, INC., Lakeside, Iowa 50588. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Fort Dodge, Iowa, to points in Iowa and Missouri, and (2) between Fremont, Neb.; Fort Dodge, Iowa; Austin and Owatonna, Minn. Restriction: Service in parts (1) and (2) above is restricted to traffic originating at the plantsite and/or warehouse facilities of the Geo. A. Hormel & Co., and destined to the points and States specified. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 133390, filed December 23, 1968. Applicant: H. IMME & SONS, INC., S-67 W 14584 Janesville Road, Muskego, Wis. 53150. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Potato chips, shoestring potatoes, popcorn, nut*

*meats, corn twists, corn chips, carmel corn, cheese corn, pretzels, and tomato juice*, from Milwaukee, Wis., to Waukegan, Ill., under a continuing contract with Geiser's Potato Chip Co. of Milwaukee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 133421, filed December 26, 1968. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, Vt. 05402. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, Va. 22315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Express*, restricted to the transportation of shipments having a prior or subsequent movement by motor bus, between points in Vermont. NOTE: Applicant presently holds passenger motor common carrier authority in MC 45626 and subs. Applicant states the primary purpose of the instant application is to permit applicant to provide express service for shippers and/or receivers located throughout the State of Vermont which are not located directly on or served by its regular route, motor-bus service, through the coordination of operations over irregular routes, and in vehicles other than motor buses with applicant's existing service involving the transportation of express shipments by motor bus. If a hearing is deemed necessary, applicant requests it be held at Burlington, Vt.

#### MOTOR CARRIER OF PASSENGERS

No. MC 126203 (Sub-No. 2), filed December 26, 1968. Applicant: EVERETT CHARTER SYSTEM, INC., 3532 Smith Street, Everett, Wash. 98201. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter coach service, beginning and ending at points in Snohomish County, Wash., and extending to points in Oregon, Idaho, Montana, California, Nevada, Utah, Colorado, Arizona, Wyoming, New Mexico, and points in British Columbia and Alberta Provinces, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

#### APPLICATION FOR BROKERAGE LICENSE

No. MC 130076, filed December 30, 1968. Applicant: DELPHI TEEN TOURS, INC., 57-11 224th Street, Bayside, N.Y. 11364. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018. For a license (BMC 5) to engage in operations as a *broker* at Bayside, N.Y., in arranging for transportation in interstate or foreign commerce of *passengers and their baggage*, both as individuals and in groups, in round trip all expense sightseeing and pleasure tours, beginning and ending at New York, N.Y., and extending to points in the United States (except Alaska and Hawaii), restricted to students accompanied by tour directors, supervisors, or chaperones.

## APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 61440 (Sub-No. 116), filed December 26, 1968. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108. Applicant's representative: Richard H. Champlin, Post Office Box 82488, Oklahoma City, Okla. 73108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between junction U.S. Highways 81 and 287 and Bowie, Tex., and junction U.S. Highways 287 and 66 at or near Amarillo, Tex., over U.S. Highway 287, serving no intermediate points and serving junction U.S. Highways 81 and 287 as a point of joinder only, and (2) between Amarillo, Tex., and junction U.S. Highways 287 and 64 approximately 1 mile east of Boise City, Okla., over U.S. Highway 287, serving no intermediate points, as alternate routes for operating convenience only in (1) and (2) above, in connection with applicant's regular route operations between Dallas, Tex., and Denver, Colo., and Dallas, Tex., and Los Angeles, Calif. Restriction: The service proposed in part (2) of the application will be restricted against traffic originating at, destined to, or interlined at Amarillo, Tex., and points in the Amarillo, Tex., commercial zone as defined by the Commission, on the one hand, and, on the other, points in Oklahoma and Denver, Colo., and points in the commercial zone of Denver, Colo., as defined by the Commission. NOTE: Common control may be involved.

## MOTOR CARRIER OF PASSENGERS

No. MC 3647 (Sub-No. 408), filed January 6, 1969. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: Richard Fryling (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, dur-

ing the authorized racing season at Green Mountain Race Track, Pownal, Vt., beginning and ending at points in Hudson, Essex, Passaic, Bergen, Union, and Middlesex Counties, N.J., and extending to Green Mountain Race Track, Pownal, Vt.

By the Commission.

[SEAL]

H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-1184; Filed, Jan. 29, 1969;  
8:49 a.m.]

[Notice 283]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 27, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70937. By order of January 15, 1969, the Transfer Board approved the transfer to Frank Carnesi Moving & Storage Corp., Brooklyn, N.Y., of the operating rights in certificate No. MC-78926 issued November 12, 1968, to Martin Lefkowitz, doing business as Peerless Moving & Storage Co., Brooklyn, N.Y., authorizing the transportation, over irregular routes, of household goods between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New York, New Jersey, Pennsylvania, Massachusetts, Delaware, Maryland, Virginia, Ohio, and the District of Columbia. Morris Honig, 150 Broadway, New York, N.Y. 10038, attorney for applicants.

No. MC-FC-71010. By order of January 17, 1969, the Transfer Board ap-

proved the transfer to The One Twenty Corporation, Steubenville, Ohio, of permit No. MC-11999, issued August 13, 1943, to William Humble, Steubenville, Ohio, authorizing the transportation of: Such commodities as are dealt in by department stores, between Steubenville, Ohio, on the one hand, and, on the other, points in Brooke, Hancock, and Ohio Counties, W. Va., and Washington County, Pa., under special and individual contracts or agreements with person (as defined in section 203(a) of the Interstate Commerce Act), who operate retail department stores, the business of which is the sale of general merchandise, for the transportation of the commodities indicated and in the manner specified above. James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC-FC-71014. By order of January 17, 1969, the Transfer Board approved the transfer to Tri-State Transport, Inc., Sauk Village, Ill., of the certificate in No. MC-127777 (Sub-No. 2), issued February 9, 1968, to Mobile Home Express, Inc., Barnham Avenue, Lansing, Ill. 60438, authorizing the transportation of: Aerators, from Roscoe, Ill., to points in the United States (including Alaska, but excluding Hawaii). James E. Moienaar, 3352 Ridge Road, Lansing, Ill. 60438, attorney for transferee.

No. MC-FC-71016. By order of January 17, 1969, the Transfer Board approved the transfer to Red Line Transfer Co., Inc., Baltimore, Md., of certificates Nos. MC-33953 (Sub-No. 2) MC-33953 (Sub-No. 3) and MC-33953 (Sub-No. 5) issued November 13, 1961, January 7, 1965, and October 17, 1968, respectively, to Philip S. Zanghi, doing business as Red Line Transfer Co., Baltimore, Md., authorizing the transportation of bananas and fresh pineapples in mixed loads with bananas from, to or between specified points in Maryland, Virginia, Pennsylvania, New York, New Jersey, and the District of Columbia. S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005, attorney for applicants.

[SEAL]

H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-1256; Filed, Jan. 29, 1969;  
8:49 a.m.]



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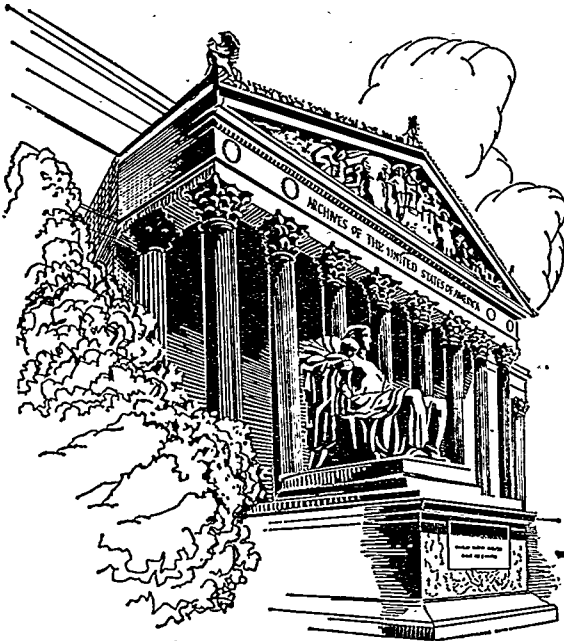
Thursday, January 30, 1969 • Washington, D.C.

PART II

Department of Health,  
Education, and Welfare

Social and Rehabilitation Service

Vocational Rehabilitation  
Programs and Activities



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social and Rehabilitation Service

45 CFR Parts 401, 402, 403, 404, 405, 406, 408, 409 I

## VOCATIONAL REHABILITATION PROGRAMS AND ACTIVITIES

### Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations revise Chapter IV of Title 45 of the Code of Federal Regulations to implement the Vocational Rehabilitation Amendments of 1967 (Public Law 90-99) and the Vocational Rehabilitation Amendments of 1968 (Public Law 90-391), and reflect the current organization of the Social and Rehabilitation Service as well as its program activities and emphases.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulations are to be issued under the authority contained in section 7(b), 68 Stat. 658, 29 U.S.C. 37(b); section 1102, 49 Stat. 647, section 222(d), 79 Stat. 408, as amended, 42 U.S.C. 1302, 422(d); and section 2, 49 Stat. 1559, as amended, 20 U.S.C. 107a.

Dated: January 15, 1969.

JOSEPH H. MEYERS,  
Acting Administrator,  
Social and Rehabilitation Service.

Approved: January 18, 1969.

WILBUR J. COHEN,  
Secretary.

Chapter IV of Title 45 of the Code of Federal Regulations is revised to include new regulations to implement the Vocational Rehabilitation Amendments of 1967 (Public Law 90-99) and the Vocational Rehabilitation Amendments of 1968 (Public Law 90-391). Some changes are also made in existing regulations to reflect the current organization of the Social and Rehabilitation Service as well as its program activities and emphases.

Part 401, as revised, covers only grants made to State vocational rehabilitation agencies under the State plans for vocational rehabilitation services. Included is the program authorized by section 222(d) of the Social Security Act, as added by section 336 of Public Law 89-97, which provides for payment from the social security trust funds for voca-

tional rehabilitation services furnished to social security disability beneficiaries.

Part 402 covers the newly authorized Vocational Evaluation and Work Adjustment programs for the disadvantaged under State evaluation and work adjustment plans.

Part 403 covers special projects grants in vocational rehabilitation designed to serve handicapped individuals. (Subpart A of Part 403 had formerly been included in Part 401.)

Part 404 covers project grants and other assistance for rehabilitation facilities (Subpart I of Part 404 had formerly appeared in Part 401 and the remaining material had previously constituted Part 402).

Part 405 covers research and demonstration activities and Part 406 covers training grant programs. (Except for Subpart D of Part 406, this material had previously appeared in Part 403.)

Part 407 contains the regulations for the National Center for Deaf-Blind Youths and Adults. (These were published on Dec. 4, 1968, as a notice of proposed regulations at 33 F.R. 18045.)

Part 408 deals with the new project grant authority for the rehabilitation of the mentally retarded.

Part 409, dealing with the vending stand program for the blind, sets forth the material formerly contained in Part 404.

Federal financial assistance extended under this chapter is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. sec. 2000d).

Future revision of regulations may be anticipated in accordance with the principles contained in Social and Rehabilitation policy statements and Bureau of the Budget Circular No. A-87.

## PART 401—THE STATE VOCATIONAL REHABILITATION PROGRAM

### Subpart A—Definitions

#### § 401.1 Terms.

Unless otherwise indicated in the regulation in this part, the terms below are defined as follows:

(a) "Act" means the Vocational Rehabilitation Act, as amended (29 U.S.C. ch. 4).

(b) "Administrator" means the Administrator of the Social and Rehabilitation Service in the Department of Health, Education, and Welfare.

(c) "Blind" means persons who are blind within the meaning of the law relating to vocational rehabilitation in each State.

(d) "Construction of a rehabilitation facility" means (1) the construction of new buildings, the acquisition of existing buildings, or the expansion of existing buildings, which are to be utilized for rehabilitation facility purposes; (2) the acquisition of initial equipment of such new, newly acquired, or newly expanded buildings; or (3) the initial staffing of such a rehabilitation facility for

a period not to exceed 4 years and 3 months.

(e) "Eligible" or "eligibility," when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that (1) a physical or mental disability is present; (2) a substantial handicap to employment exists; and (3) vocational rehabilitation services may reasonably be expected to render the individual fit to engage in a gainful occupation.

(f) "Establishment of a rehabilitation facility" means (1) the expansion, remodeling, or alteration of existing buildings, necessary to adapt or to increase the effectiveness of such buildings for rehabilitation facility purposes; (2) the acquisition of initial equipment for such purposes; or (3) the initial staffing of a rehabilitation facility, for a period not to exceed 4 years and 3 months.

(g) "Family members" or "members of the family" means any relative by blood or marriage of a handicapped individual and other individuals living in the same household with whom the handicapped individual has a close interpersonal relationship.

(h) "Gainful occupation" includes employment in the competitive labor market; practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; and home industries or other gainful homebound work.

(i) (1) "Handicapped individual" means any individual who has a physical or mental disability and a substantial handicap to employment, which is of such a nature that vocational rehabilitation services (paragraph (z) (1) of this section) may reasonably be expected to render him fit to engage in a gainful occupation, including a gainful occupation which is more consistent with his capacities and abilities.

(2) "Handicapped individual" also means any individual who has a physical or mental disability and a substantial handicap to employment for whom vocational rehabilitation services (paragraph (z) (2) of this section) are necessary for the purpose of extended evaluation to determine rehabilitation potential.

(j) "Local rehabilitation agency" means the public agency of a political subdivision of a State which has sole responsibility for administering the vocational rehabilitation program in the locality, under the supervision of the State agency.

(k) "Maintenance" means payments to cover the handicapped individual's basic living expenses, such as food, shelter, clothing, health maintenance, and other subsistence expenses essential to determination of the individual's rehabilitation potential or to achievement of his vocational rehabilitation objective.

(l) "Management services and supervision" for small business enterprises includes inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve small business

enterprises operated by blind or other severely handicapped persons under a State agency's small business enterprise program. "Management services and supervision" does not include those services or costs which pertain to the operation of the individual business enterprise, such as employment of substitute workers, rent, advertising and other operating costs.

(m) "Nonprofit," when used with respect to a rehabilitation facility means a rehabilitation facility which is owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(n) "Occupational license" means any license, permit, or other written authority required by a State, city, or other governmental unit to be obtained in order to enter an occupation.

(o) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. It includes behavioral disorders characterized by a pattern of deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational, educational, cultural, social, environmental, or other factors.

(p) "Physical restoration services" means those services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive, and includes: (1) Medical or surgical treatment by general practitioners or medical specialists; (2) psychiatric treatment; (3) dentistry; (4) nursing services; (5) hospitalization (either inpatient or outpatient care) and clinic services; (6) convalescent, nursing or rest home care; (7) drugs and supplies; (8) prosthetic devices and orthotic devices essential to obtaining or retaining employment; (9) eye glasses and visual services, as prescribed by a physician skilled in the diseases of the eye or by an optometrist; (10) physical therapy; (11) occupational therapy; (12) speech or hearing therapy; (13) psychological services; (14) treatment of medical complications and emergencies, either acute or chronic, which are associated with or arise out of the provision of physical restoration services, or are inherent in the condition under treatment; and (15) other medical or medically related rehabilitation services. The provision that the condition is stable or slowly progressive does not apply when physical restoration services are provided under extended evaluation in order to determine the rehabilitation potential.

(q) "Regional Commissioner" means the Regional Commissioner of the Social and Rehabilitation Service.

(r) "Rehabilitation facility" means a facility which is operated for the primary

purpose of providing vocational rehabilitation services to or gainful employment for handicapped individuals, or for providing evaluation and work adjustment services for disadvantaged individuals under Part 402 of this chapter, and which provides singly or in combination one or more of the following services for handicapped individuals: (1) Comprehensive rehabilitation services which include, under one management, medical, psychological, social, and vocational services; (2) testing, fitting, or training in the use of prosthetic and orthotic devices; (3) prevocational conditioning or recreational therapy; (4) physical and occupational therapy; (5) speech and hearing therapy; (6) psychological and social services; (7) evaluation; (8) personal and work adjustment; (9) vocational training (in combination with other rehabilitation services); (10) evaluation or control of special disabilities; and (11) transitional or long-term employment for the severely handicapped who cannot be readily absorbed in the competitive labor market: *Provided*, That all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to practice medicine or surgery in the State.

(s) "Secretary" means the Secretary of Health, Education, and Welfare.

(t) "Small business enterprise" means a small business operated by blind or other severely handicapped persons under the management and supervision of the State agency or its nominee. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the most effective utilization of the skills and aptitudes of blind or other severely handicapped persons and provide substantial gainful employment or self-employment commensurate with the time devoted by the operator or operators to the business, the cost of establishing the business and other factors of an economic nature.

(u) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, and Guam.

(v) "State agency" or "State vocational rehabilitation agency" means the sole State agency designated to administer (or supervise local administration of) the State plan for vocational rehabilitation services. The term includes the State agency for the blind, if designated as the sole State agency with respect to that part of the plan relating to the vocational rehabilitation of the blind.

(w) "State plan" means the State plan for vocational rehabilitation services.

(x) "Substantial handicap to employment" means that a physical or mental disability (in the light of attendant medical, psychological, vocational, educational, cultural, social, or environmental factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for a gainful occupation consistent with his capacities and abilities.

(y) "Visual services" means visual training, and the examination and serv-

ices necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids, as prescribed by a physician skilled in diseases of the eye or by an optometrist.

(z) (1) "Vocational rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a gainful occupation, including (i) evaluation, including diagnostic and related services; (ii) counseling and guidance; (iii) physical restoration services; (iv) training, including personal and vocational adjustment; (v) books and training materials (including tools); (vi) maintenance; (vii) placement; (viii) followup services; (ix) tools, equipment, initial stocks and supplies, including equipment and initial stocks and supplies for vending stands; (x) management services and supervision provided by the State agency and acquisition of vending stands or other equipment and initial stocks and supplies, for small businesses enterprises, operated under the supervision of the State agency by the severely handicapped; (xi) transportation; (xii) occupational licenses; (xiii) reader services for the blind; (xiv) interpreter services for the deaf; (xv) services to members of a handicapped individual's family when such services will contribute substantially to the rehabilitation of the handicapped individual; (xvi) recruitment and training services for new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate service employment; and (xvii) such other goods and services as are necessary to render a handicapped individual fit to engage in a gainful occupation.

(2) "Vocational rehabilitation services" (for the purpose of extended evaluation for the determination of rehabilitation potential) also means any goods or services, including the items specified in subparagraph (1) (i) through (vi), (xi), (xiii)-(xv), and (xvii) of this paragraph, which are provided to an individual who has a physical or mental disability and a substantial handicap to employment, during the period specified by the Administrator (§ 401.31) to be necessary for, and which are provided for the purpose of ascertaining whether it may reasonably be expected that such individual will be rendered fit to engage in a gainful occupation through the provision of goods and services described in subparagraph (1) of this paragraph;

(3) "Vocational rehabilitation services" also covers the establishment of a rehabilitation facility and the construction of a rehabilitation facility;

(4) The term also covers the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation plan of any one handicapped individual.

(aa) "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, where any manufacture or handiwork is carried on and which is

operated for the primary purpose of (1) providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for disadvantaged individuals under Part 402 of this chapter.

### Subpart B—State Plans for Vocational Rehabilitation Services

#### STATE PLAN CONTENT: ADMINISTRATION

#### § 401.2 The State plan: general requirements.

(a) *Purpose.* A basic condition to the certification of Federal funds to a State for vocational rehabilitation services is a State plan found to meet Federal requirements. This plan shall constitute a description of the State's vocational rehabilitation program. The State plan shall meet the requirements as to content hereinafter stated. It shall provide for financial participation by the State, and shall provide that it will be in effect in all political subdivisions of the State except as specifically provided in § 401.10. The Administrator shall approve any plan meeting the requirements of the act and of this part. Upon designation of a new State agency (see § 401.5), a new State plan must be submitted.

(b) *Form.* The general form and content of the State plans are set forth in the State Plan Guide which is distributed to all State agencies administering vocational rehabilitation programs.

(c) *Amendment.* The plan shall provide that it will be amended whenever necessary to reflect a material change in any applicable phase of State law, organization, policy, or agency operations and that such amendments will be submitted to the Social and Rehabilitation Service before it is put into effect, or within a reasonable time thereafter.

(d) *Separate part relating to rehabilitation of the blind.* If, as hereinafter provided for, a State agency for the blind administers or supervises the administration of that part of the State plan relating to the rehabilitation of the blind, such part of the State plan shall meet all requirements as to submission, amendment, and content prescribed by the act and this part, as though it were a separate State plan.

#### § 401.3 Approval of State plans and amendments.

Both the original plan and all amendments thereto shall be submitted to the Regional Commissioner.

(a) *New or substantially revised plans.* New or substantially revised plans are approved by the Administrator.

(b) *Plan amendments.* An amendment to a plan is approved by the Regional Commissioner. If an amendment is approved, the Regional Commissioner incorporates it into the approved State plan and advises the State. If the Regional Commissioner considers an

amendment not to be approvable and is unable to secure necessary changes by the State, he submits the amendment to the central office of the Social and Rehabilitation Service for appropriate action.

#### § 401.4 Withholding of funds.

(a) *When withheld.* When after reasonable notice and opportunity for hearing to the State agency it is found that (1) the plan has been so changed that it no longer complies with the requirements of section 5(a) of the act, or (2) in the administration of the plan there is a failure to comply substantially with any such provisions, further payments under section 2 or 3 may be withheld or limited as provided by section 5(c) of the act. The State agency is notified of the action taken.

(b) *Judicial review.* The decision to withhold payments described in paragraph (a) of this section may be appealed to the U.S. district court for the district in which the capital of the State is located. The court will review the action on the record in accordance with the provisions of the Administrative Procedure Act.

(c) *Informal discussions.* Hearings described in paragraph (a) of this section are generally not called until after reasonable effort has been made by the Social and Rehabilitation Service to resolve the questions involved by conference and discussion with State officials. Formal notification of the date and place of a hearing does not foreclose further negotiations with State officials.

#### § 401.5 State agency for administration.

(a) *Designation of sole State agency.* The State plan shall designate a sole State agency to administer the State plan for vocational rehabilitation services in the State or to supervise its administration in a political subdivision of the State by a sole local agency of such political subdivision. This agency shall be one of the agencies specified in paragraph (b) of this section, except that the State agency for the blind, as specified in paragraph (c) of this section, may be designated as the sole State agency with respect to that part of the program relating to the vocational rehabilitation of the blind.

(b) *Designated State agency.* The designated State agency, except for a designated State agency for the blind as specified in paragraph (c) of this section, shall be:

(1) A State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of disabled individuals; such agency must be an independent State commission, board, or other agency whose major function is vocational rehabilitation, or vocational and other rehabilitation, of disabled individuals, with authority, subject to the supervision which derives from the office of the Governor, to define the scope of the program within the provisions of State and Federal law, and to direct its administration without external administrative controls;

(2) The State agency administering or supervising the administration of education or vocational education in the State; or

(3) A State agency which includes at least two other major organizational units each of which administers one or more of the State's major programs of public education, public health, public welfare, or labor.

(c) *Designated State agency for the blind.* Where the State commission for the blind, or other agency which provides assistance or services to the adult blind, is authorized under State law to administer or supervise the administration of vocational rehabilitation services to the blind, such commission or agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind or to supervise the administration of such part in a political subdivision of the State by a sole local agency of such political subdivision.

(d) *Authority.* The State plan shall set forth the authority under State law for the administration or supervision of the administration of the program by the State agency, and the legal basis for administration by local rehabilitation agencies, if applicable. In this connection, copies of all laws and interpretations thereof by appropriate State officials, directly pertinent to the administration or supervision of the vocational rehabilitation program, shall be submitted as a part of the plan.

(e) *Responsibility for administration.* The State plan shall provide that all decisions affecting eligibility for vocational rehabilitation services, including the acceptability for extended evaluation and the nature and scope of vocational rehabilitation services to be provided, will be made by the State agency through its organizational unit, or by a local rehabilitation agency under its supervision, and that this responsibility will not be delegated to any other agency or individual.

#### § 401.6 Organization for administration.

(a) *Organization.* The State plan shall describe the organizational structure of the State agency, including descriptions of organizational units, the functions assigned to each, and the relationships among units in the vocational rehabilitation program. Such descriptions shall be accompanied by organizational charts reflecting (1) the relationship of the State agency to the Governor and his office and to other agencies administering major programs of public education, public health, public welfare, or labor of parallel stature within the State government, and (2) the internal structure of the State agency. The organizational structure shall provide for all the vocational rehabilitation functions for which the State agency is responsible, for clear lines of administrative and supervisory authority, and shall be suited to the size of the vocational rehabilitation program and the geographic areas in which the program must operate. The State plan



shall also describe methods of administration which will provide for the coordination and integration of activities, adequate controls over operations, channels for the development and interpretation of policies and standards, and effective supervision of staff under the vocational rehabilitation program. The organizational structure and the methods of administration shall facilitate program operations, and shall ensure the provision of all necessary vocational rehabilitation services available under the State plan to rehabilitation clients, including services necessary to determine rehabilitation potential.

(b) *Organizational unit.* Where the designated State agency is of the type specified in § 401.5(b) (2) or (3), or § 401.5(c), the State plan shall provide that the agency (or each agency, where two such agencies are designated) shall include a vocational rehabilitation organizational unit which: (1) Is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of disabled individuals, and is responsible for the administration of such State agency's vocational rehabilitation program, which must include the determination of eligibility for and the provision of services under the State plan; (2) has a full-time administrator in accordance with § 401.7; and (3) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work.

(c) *Location of organizational unit.*

(1) The State plan shall provide that the organizational unit, specified in paragraph (b) of this section, shall be located at organizational level and shall have an organizational status within the State agency comparable to that of other major organizational units of such agency or, in the case of an agency described in § 401.5(b) (2), the unit shall be so located and have such status, or the administrator of such unit shall be the executive officer of such State agency. The organizational unit must be at a level which assures that it will be effective in the day-to-day operation of the vocational rehabilitation program. In evaluating the comparability of the organizational level and the organizational status of the unit, the Administrator will give consideration to such factors as the directness of the reporting line from the administrator of the organizational unit for vocational rehabilitation to the chief officer of the designated State agency; the title, status and grade of the administrator of the organizational unit for vocational rehabilitation as compared with those of the heads of other organizational units of the State agency; the extent to which the administrator of the organizational unit for vocational rehabilitation can determine the scope and policies of the vocational rehabilitation program; and the kind and degree of authority delegated to the administrator of the organizational unit for the administration of the vocational rehabilitation program. (2) In the case of a State which has not designated a separate State agency for

the blind as provided for in § 401.5, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of the State agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provision of paragraphs (b) and (c) (1) of this section applying separately to each of such units.

#### § 401.7 State administrator.

The State plan shall provide that there shall be a State administrator or other named official who shall direct the State agency specified in § 401.5(b) (1) or the organizational unit specified in § 401.6 (b), and who shall be required to devote his full time and efforts to the vocational rehabilitation program, or the vocational and other rehabilitation of disabled individuals, with the following exception: Upon the request of a State agency, the Administrator may approve arrangements whereby the State administrator is also responsible for the direction of other programs primarily concerned with handicapped persons, if he finds in view of all the circumstances in the particular case that such arrangements will not impair the effective administration of the State plan.

#### § 401.8 Local administration.

The State plan may provide for administration of the plan through a sole local rehabilitation agency of a political subdivision of the State, under the supervision of the State agency and in compliance with statewide standards established by the State agency (except to the extent that there is a waiver of statewide standards, § 401.10). If the plan provides for local administration, the local rehabilitation agency shall be responsible for the administration of all aspects of the program within the political subdivision which it serves: *Provided, however*, that a separate local rehabilitation agency serving the blind may administer that part of the plan relating to the rehabilitation of the blind, under the supervision of the State agency for the blind. If the State plan provides for the administration of the program by local rehabilitation agencies, the State plan shall set forth the standards governing their organization and methods of administration and shall describe the nature and extent of the supervision exercised by the State agency in order to assure observance in the application of State standards and the effective achievement of the objectives of the State plan throughout the State except to the extent that the requirement for statewide standards is waived in accordance with § 401.10.

#### § 401.9 Shared funding and administration of joint projects.

If the State plan so provides, the State agency may request the Administrator to authorize the State agency to share funding and administrative responsibility for an identifiable joint project with another agency or agencies of the

State in order to provide services to handicapped individuals. The Administrator will approve a request for a joint project which it has been determined will more effectively accomplish the purposes of the act. Upon approval of a request, the Administrator may waive the sole State agency provision of § 401.5(a) (except in cases of cooperative programs utilizing third-party funds for vocational rehabilitation services under § 401.11) and the provision of § 401.2(a) that the State plan be in effect in all political subdivisions of the State. The State plan shall further provide that each joint project shall be based on a written agreement which: (a) Describes the nature and scope of the joint project, the services to be provided to handicapped individuals, and the respective roles of each participating agency both in the provision of services and in the administration of such services, and in the share of the costs to be assumed by each; (b) specifies the initial term of the project and plans for anticipated continuation; (c) provides a budget showing for each fiscal year the financial participation by the State agency and each participating agency; (d) provides written assurance that funds will be legally available for purposes of the joint project; (e) provides that the State agency shall annually evaluate the effectiveness of each project with special attention to its vocational rehabilitation objectives; and (f) assures that the State agency and each participating agency will furnish such information and reports as the Administrator may from time to time require to determine whether the activities are achieving the purposes of the project and warrant continuation.

#### § 401.10 Waiver of Statewide standards.

If the State agency desires to carry out activities in one or more political subdivisions through local financing to promote the vocational rehabilitation of substantially larger numbers of handicapped individuals or the vocational rehabilitation of individuals with particular types of disabilities, the State plan shall (a) describe the types of activities which will be carried out for these purposes; (b) provide that the State agency will obtain a full written description of any such activity to be carried out in a particular political subdivision and will obtain written assurance from the political subdivision that the non-Federal share of funds is available to the State agency; (c) provide that the State agency will require that its approval be given to each individual proposal before the proposal is put into effect in a political subdivision; (d) provide that the State agency will furnish such information and reports as the Administrator may from time to time require to ascertain whether the activities are within the purposes of this section; (e) provide that the State agency will have sole responsibility for administration (or supervision if the vocational rehabilitation program is administered by local rehabilitation agencies) of the program in the particular local political subdivision in accordance

with § 401.5, except to the extent that the sole State agency provision has been waived with respect to a joint project (§ 401.9); and (f) provide that all requirements of the State plan shall apply to such activities, except the requirement that the program shall be in effect in all political subdivisions of the State, and except that the provision of § 401.82 may be applicable for Federal financial participation in expenditures for carrying out such activities.

**§ 401.11 Cooperative programs utilizing third-party funds for vocational rehabilitation services.**

(a) The State plan shall provide that when the State's share of the cost of a cooperative program is made available in whole or in part by a State or local public agency other than the State vocational rehabilitation agency, such cooperative program shall be based on a written agreement which (1) describes the activities to be undertaken; (2) provides for an annual budget; (3) provides that expenditures for vocational rehabilitation services and administration for which Federal financial participation is claimed will be under the control and at the discretion of the State agency; (4) provides that only individuals in need of evaluation to determine eligibility or handicapped individuals who have either been certified as eligible pursuant to § 401.30(b) or have been determined to be in need of extended evaluation to determine eligibility shall be served by the cooperative program; (5) provides for periodic evaluation of the cooperative program; and (6) provides that the State agency and the cooperating agency will furnish such other information and reports as the Administrator may require.

(b) The State plan shall assure that services provided in such a cooperative program are vocational rehabilitation services (1) which are not services which are the primary responsibility of the cooperating agency, or to which the handicapped individual would be entitled if he were not an applicant or client of the State agency and (2) which represent new services or new patterns of services of the cooperating agency.

**§ 401.12 Standards of personnel administration.**

(a) The State plan shall set forth the State agency's standards of personnel administration applicable to its own employees and those of local rehabilitation agencies operating under its supervision. The State plan shall specify that rates of compensation and minimum qualifications will be established for each class of position which are commensurate with the duties and responsibilities of that class; and shall set forth the policies of the State agency with respect to the selection, appointment, promotion, career development, and tenure of qualified personnel, including its policies against discrimination on the basis of sex, race, creed, color, or national origin.

(b) The State plan shall provide for the maintenance of such written personnel policies, records, and other in-

formation as are necessary to permit an evaluation of the operations of the system of personnel administration in relation to the standards of the State agency.

(c) Where personnel administration is conducted under a State merit system approved by the Department of Health, Education, and Welfare (or a constituent unit thereof) as meeting the "Standards for a Merit System of Personnel Administration," Part 70 of this title, the State plan may make reference to such fact, and the information required above with respect to "Standards of personnel administration" need not be submitted, except that the responsibility for the appointment of personnel shall be described.

(d) The Administrator shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with the provisions of the approved State plan.

**§ 401.13 Medical consultation.**

The State plan shall provide for and describe the arrangements made to secure adequate medical consultation and to assure the availability of medical consultative services of high quality on all medical aspects of the vocational rehabilitation program, as needed in all State, district, or local offices of the agency.

**§ 401.14 State agency facility staff.**

The State plan shall provide for adequate staff to carry out the functions of the State agency pertaining to rehabilitation facilities in such areas as: (a) The setting of standards for rehabilitation facilities utilized in providing services to handicapped individuals under the State plan and, where appropriate, to disadvantaged individuals under the State evaluation and work adjustment plan under Part 402 of this chapter; (b) the effective utilization of existing rehabilitation facilities in the rehabilitation process; (c) the establishment and construction of rehabilitation facilities under §§ 401.58 and 401.59; (d) the coordination between the State agency and the State agency or agencies administering the programs pursuant to any other act concerned with the development, establishment, or construction of rehabilitation facilities, in order to prevent duplication of the rehabilitation facility effort and impairment of the State vocational rehabilitation program; (e) the functions of the State agency in the administration of grants and services for rehabilitation facilities under this part and under Part 404 of this chapter; (f) the updating and maintenance of the State rehabilitation facilities plan; and (g) other activities under the State plan involving rehabilitation facilities.

**§ 401.15 State agency program planning staff.**

(a) The State plan shall provide for adequate staff with appropriate qualifications to carry out continuing statewide studies of the needs of handicapped individuals within the State and the

means by which these needs may be most effectively met. Such staff shall be responsible for studies, which may include but are not limited to: (1) A continuing identification of those disabled persons who need and can benefit from vocational rehabilitation services; (2) the review, updating, and implementation of statewide planning studies for vocational rehabilitation services and of related planning studies within the State; (3) an evaluation of the adequacy of existing rehabilitation program resources and the identification of those resources necessary for meeting future rehabilitation needs; (4) planning studies and activities necessary for the development and improvement of the State vocational rehabilitation program; and (5) such other studies as are necessary to ensure the orderly development of rehabilitation services and resources. Planning studies for rehabilitation services shall be coordinated, to the maximum extent possible, with related planning activities being conducted on a statewide, regional or other basis under the act or other authority. In States in which there is a separate agency for the blind, coordinated or joint planning studies shall be conducted.

(b) Advisory committees, representing labor, management, medical and health related organizations and institutions, the disabled, public and voluntary agencies and civic groups, shall be utilized by the State agency program planning staff, insofar as practicable, in the conduct of statewide planning studies, and no less than one-third of the membership of such advisory committees shall be disabled persons.

**§ 401.16 Staff development.**

The State plan shall provide for a program of staff development in order to improve the operation of the State vocational rehabilitation program and to promote the provision of a high quality of vocational rehabilitation services to increasing numbers of handicapped individuals. The State plan shall describe the scope of the training program which shall include as a minimum: (a) A systematic approach to the determination of training needs, periodic reassessment of these needs and a system for evaluating the effectiveness of the training activities provided; (b) an orientation program for new staff; and (c) a plan for continuing training opportunities and career development for all classes of positions held under expert leadership at suitable intervals. If the staff development program includes leaves of absence for institutional or other organized training such as full-time study, released time, or work-study or worker-in-training programs, the State plan shall specify the policies governing the granting of such leave. The State plan shall provide for adequate staff to direct the staff development program.

**§ 401.17 Political activity.**

The State plan shall prohibit any employee engaged in the day-to-day administration and operation of the program from engaging in any political activity prohibited by the Hatch Act (5

U.S.C. 7321 et seq.) and Civil Service Rule IV (5 CFR Part 4). Any employee shall have the right to express his views as a citizen and to cast his vote.

#### § 401.18 Fiscal administration.

The State plan shall set forth the policies and methods pertinent to the fiscal administration and control of the vocational rehabilitation program, including sources of funds, incurrence and payment of obligations, disbursements, accounting, and auditing. The State plan shall provide for the maintenance by the State agency (or, where applicable, by the local rehabilitation agency) of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all moneys received and the nature and amount of all charges claimed against such grants.

#### § 401.19 Custody of funds.

The State plan shall designate the State official who will receive and provide for the custody of all funds paid to the State under the act, subject to requisition or disbursement by the State agency.

#### § 401.20 Reports.

(a) The State plan shall provide that the State agency will make such reports in such form and containing such information as the Administrator may reasonably require, and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports. This provision applies to reports in all areas of program operation and administration and to various methods of reporting, including written and oral reports, and inspection and review of fiscal, statistical, casework, and other records and operations.

(b) From time to time the Social and Rehabilitation Service reviews, with the States' cooperation, administrative, fiscal, and program methods and practices and makes suggestions for the improvement of such methods and practices.

#### § 401.21 Cooperation with other agencies.

(a) The State plan shall provide that the State agency will establish and maintain cooperative working relationships with the Bureau of Employees' Compensation of the Department of Labor, the Social Security Administration of the Department of Health, Education, and Welfare, the State agencies responsible for the programs of public assistance and workmen's compensation and the system of public employment offices. The basis for the cooperative working arrangement with the system of public employment offices shall be a written agreement which shall provide, among other things, for reciprocal referral services, exchange of reports of service, joint service programs, continuous liaison and maximum utilization of the job placement and employment counseling services and other services and facilities of the public employment offices.

(b) The State plan shall further provide that the State agency will establish and maintain working relationships with other public and private agencies and institutions, such as crippled children's agencies, Veterans Administration facilities, hospitals, health and mental health departments, State and Federal agencies administering wage and hour laws applicable to handicapped individuals, State and other agencies administering special education, vocational education, economic opportunity and manpower development and training programs, the State Selective Service System and voluntary social and health agencies furnishing services relating to vocational rehabilitation, so as to assure maximum utilization on a coordinated basis of the services which all agencies in the State have to offer for the vocational rehabilitation of handicapped individuals.

(c) Where there is a separate State agency for the blind, the State plan shall also provide that the two State agencies will establish reciprocal referral services, utilize each other's services and facilities to the extent practicable and feasible, jointly plan activities which will improve services to handicapped individuals in the State, and otherwise cooperate in the interest of providing more effective services.

#### § 401.22 Nondiscrimination in employment under construction contracts.

The State plan shall provide that the State agency will incorporate, or cause to be incorporated, into construction contracts (including construction contracts related to the establishment or construction of rehabilitation facilities) paid for in whole or in part with funds obtained from the Federal Government under the vocational rehabilitation program, such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246, and will otherwise comply with requirements prescribed by and pursuant to such order.

#### § 401.23 Funds made available to private nonprofit agencies for establishment or construction of rehabilitation facilities.

The State plan shall provide that funds made available to a private nonprofit agency for the establishment or construction of a rehabilitation facility (see §§ 401.58, 401.59) shall be expended by that agency in accordance with procedures and standards equivalent to those applicable to the State agency in making direct expenditures for similar purposes.

#### STATE PLAN CONTENT: CASEWORK PRACTICE

#### § 401.30 Eligibility.

(a) *General provisions.* (1) The State plan shall describe the policies and methods which the State agency will follow in determining eligibility for vocational rehabilitation services in each case. Insofar as applicable, the provision relating to "Case study and diagnosis" (§ 401.32) shall apply in the determination of eligibility.

(2) The State plan shall provide that eligibility requirements will be applied

by the State agency or local rehabilitation agency without regard to sex, race, creed, color, or national origin of the individual. The State plan shall further provide that no group of individuals shall be excluded or found ineligible solely on the basis of their type of disability. In addition, the State plan shall specify that no upper or lower age limit will be established which will, in and of itself, result in a finding of ineligibility for any handicapped individual who otherwise meets the three basic eligibility requirements specified in paragraph (b) of this section.

(3) Effective no later than July 1, 1969, the State plan shall specify that no residence requirement, durational or other, will be imposed which excludes from services under the plan any individual who is in the State: *Provided, however,* That the State plan may provide for the exclusion of nonresidents who are in the State for the sole purpose of becoming clients of the State vocational rehabilitation agency.

(b) *Basic conditions.* The State plan shall provide that eligibility for vocational rehabilitation services (§ 401.1(z)(1)) shall be based upon: (1) The presence of a physical or mental disability; (2) the existence of a substantial handicap to employment; and (3) a reasonable expectation that vocational rehabilitation services may render the individual fit to engage in a gainful occupation.

(c) *Certification of eligibility.* (1) The State plan shall provide that, prior to or simultaneously with acceptance of the handicapped individual for vocational rehabilitation services, there will be a certification that the individual has met the three basic eligibility requirements specified in paragraph (b) of this section. (See § 401.31(d) for certification of acceptability for extended evaluation to determine rehabilitation potential.) The State plan shall further provide that the certified statement of eligibility will be dated and signed by an appropriate agency staff member to whom such responsibility has been assigned.

(2) The State plan shall provide that a certification will be similarly executed for each case determined to be ineligible for vocational rehabilitation services, including those who have been found ineligible under this section and § 401.31. In such cases the State agency shall notify the individual of the action taken.

#### § 401.31 Extended evaluation to determine rehabilitation potential.

(a) *General provisions.* The State plan shall describe the policies and methods which the State agency will follow in establishing the need for an extended evaluation in order to determine the rehabilitation potential. Insofar as applicable, the provisions relating to "Case study and diagnosis" (§ 401.32) shall apply in determining acceptability for extended evaluation of handicapped individuals.

(b) *Basic conditions.* The State plan shall provide that the furnishing of vocational rehabilitation services under extended evaluation to determine rehabilitation potential shall be based upon: (1) The presence of a physical or mental

disability; (2) the existence of a substantial handicap to employment; and (3) inability to make a determination as to the third condition of eligibility under § 401.30(b) without an extended evaluation, including the provision of vocational rehabilitation services.

(c) *Duration.* Necessary vocational rehabilitation services, as specified in paragraph (e) of this section, may be provided during a period not in excess of 18 months in the case of a handicapped individual whose disability is (1) mental retardation, (2) deafness, (3) blindness, (4) paraplegia, quadriplegia, and other spinal cord injuries or diseases, (5) heart disease, (6) cancer, (7) stroke, (8) epilepsy, (9) mental illness, (10) cerebral palsy, (11) brain damage, (12) arthritis, (13) muscular dystrophy, (14) cystic fibrosis, or (15) renal failure, and not in excess of 6 months in the case of an individual with any other disability.

(d) *Certification.* The State plan shall provide that, prior to or simultaneously with acceptance of an individual for vocational rehabilitation services for the purpose of extended evaluation to determine rehabilitation potential, there will be a certification that the individual has met the three requirements in paragraph (b) of this section. The State plan shall further provide that the certified statement will be dated and signed by an appropriate agency staff member to whom such responsibility has been assigned.

(e) *Scope of services.* The State plan shall provide that, in addition to counseling and guidance, any or all of the following vocational rehabilitation services shall be provided if necessary to determine the rehabilitation potential of the individual: (1) Evaluation, including diagnostic and related services; (2) physical restoration services (without the need for a determination that the physical or mental condition is stable or slowly progressive); (3) maintenance; (4) transportation; (5) training and training materials (including tools); (6) reader services for the blind; (7) interpreter services for the deaf; (8) services to members of the individual's family when such services will contribute substantially to the determination of the rehabilitation potential of the handicapped individual; and (9) other goods and services which are necessary to determine the rehabilitation potential of a handicapped individual.

(f) *Other conditions.* (1) Federal financial participation will be available in expenditures for vocational rehabilitation services, authorized after the expiration of the 6- or 18-month period, whichever is applicable in the individual case, only if a certification of eligibility has been executed by the appropriate State agency staff member to whom such responsibility has been assigned, certifying that the individual has met the three basic conditions of eligibility specified in § 401.30(b).

(2) The 6- or 18-month period shall begin with the date of the certification required in paragraph (d) of this section.

(3) Only one 6- or 18-month period for determination of the rehabilitation potential shall be permitted during the period that the case is open. However, if a case has been closed a subsequent determination of the rehabilitation potential may be carried out provided that the conditions in paragraph (b) of this section are met.

(g) *Termination.* (1) The State plan shall provide that at any time prior to the expiration of the 6- or 18-month period, the extended evaluation for the determination of the rehabilitation potential shall be terminated and the individual found eligible for vocational rehabilitation services under § 401.30 if and when there is a reasonable expectation that he can be rendered fit to engage in a gainful occupation.

(2) The determination of the rehabilitation potential shall also be terminated before the expiration of the 6- or 18-month period and the individual found ineligible for any other vocational rehabilitation services at any time it is determined that there is no reasonable likelihood that he can be rendered fit to engage in a gainful occupation.

(h) *Review.* The State plan shall provide for frequent review of the individual's progress during the 6- or 18-month period including periodic reports from the institution, facility, or person providing the service.

#### § 401.32 Case study and diagnosis.

(a) The State plan shall provide that, prior to and as a basis for formulating the vocational rehabilitation plan for any individual certified as eligible under § 401.30, there will be a thorough diagnostic study, which will consist of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors in the case. The State plan shall provide that in each case the diagnostic study shall be adequate to provide the basis for (1) establishing that a physical or mental disability is present; (2) appraising the current general health status of the individual; (3) determining how and to what extent the disabling conditions may be expected to be removed, corrected, or minimized by physical restoration services; and (4) selecting an employment objective commensurate with the individual's interests, capacities and limitations.

(b) The State plan shall provide that the diagnostic study will include, in all cases to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustment, employment opportunities, and other pertinent data helpful in determining the nature and scope of services to be provided for accomplishing the individual's vocational rehabilitation objective.

(c) The State plan shall further provide that the medical diagnostic study shall include (1) a complete general medical examination, providing an appraisal of the current medical status of the individual; (2) examinations by specialists in all medical specialty

fields, as needed, including a psychiatric evaluation in all cases of mental illness (except as provided in paragraph (e) of this section); and (3) such clinical laboratory tests, X-rays, and other indicated studies as are necessary, in addition to subparagraphs (1) and (2) of this paragraph, to establish the diagnosis, to determine the extent to which the disability limits (or is likely to limit) the individual's daily living and work activities, and to estimate the probable results of physical restoration services.

(d) The State plan shall, in addition, set forth the specifications established by the agency for the content of the diagnostic study outlined in paragraph (c) of this section, including (1) the subject matter to be covered and the minimum diagnostic procedures to be employed routinely in the general medical examination; (2) the required recency of such examination, and the conditions under which a medical abstract will be accepted in lieu of a new examination; and (3) the conditions under which examinations by specialists will be required.

(e) The State plan shall provide that (1) in all cases of mental retardation a psychological evaluation will be obtained which will include a valid test of intelligence and an assessment of social functioning and educational progress and achievement; (2) in all cases of behavioral disorders an evaluation by either a psychologist or psychiatrist will be obtained; and (3) in all cases of blindness an adequate hearing evaluation will be obtained. The State plan shall also set forth the specifications established by the State agency for the content of the evaluations described in subparagraphs (1) and (2) of this paragraph.

(f) The State plan shall further provide that, prior to, and as a basis for the extended evaluation plan (§ 401.33), sufficient case study and diagnosis in accordance with the foregoing paragraphs of this section, insofar as applicable, will be completed to establish (1) the presence of a physical or mental disability, (2) a substantial handicap to employment, and (3) the services to be provided during the extended evaluation period.

#### § 401.33 Extended evaluation plan.

(a) The State plan shall provide that an extended evaluation plan to determine rehabilitation potential will be formulated for each individual to whom services will be provided after certification under § 401.31. This individual plan shall (1) be based on data secured in the preliminary diagnostic study; (2) indicate the nature of the vocational rehabilitation services necessary to determine the rehabilitation potential of the individual and the arrangements for providing (or otherwise securing) such necessary services; and (3) be formulated with the assistance of appropriate agency consultants when necessary and with the client's participation.

(b) The State plan shall provide that the State agency shall terminate or revise the extended evaluation plan for an



individual when it becomes evident that (1) there is no reasonable likelihood that a vocational rehabilitation objective can be achieved; (2) his needs have changed; or (3) there is a reasonable expectation that the provision of vocational rehabilitation services may render him fit to engage in a gainful occupation.

**§ 401.34 Vocational rehabilitation plan for the individual.**

(a) The State plan shall provide that an individual plan of vocational rehabilitation will be formulated for each client to whom services will be provided after eligibility has been established. The individual plan shall (1) be based upon data secured in the diagnostic study and, if provided, the extended evaluation; (2) specify the vocational rehabilitation objective (or tentative objective where the ultimate objective cannot be determined at that time), the services necessary to accomplish the client's vocational rehabilitation (including services to family members when such services will contribute substantially to the rehabilitation of the handicapped individual) and the arrangements for providing (or otherwise securing) such necessary services; and (3) be formulated with the assistance of appropriate agency consultants when necessary and with the client's participation.

(b) The State plan shall provide that the vocational rehabilitation plan shall specify that all necessary services will be carried to completion insofar as possible. The State plan shall further provide that the State agency may terminate or revise the plan for any client when it becomes evident that his vocational rehabilitation cannot be achieved, that services cannot be completed, or that the client's needs have changed.

**§ 401.35 Processing referrals and applications.**

The State plan shall describe the methods to be followed in handling referrals and applications for vocational rehabilitation services.

**§ 401.36 Order of selection for services.**

The State plan shall set forth the criteria to be used in selecting handicapped individuals for services when services cannot be provided to all persons who apply. Such criteria shall be designed to achieve the objectives of the vocational rehabilitation program to the fullest extent possible within the limitations of available resources.

**§ 401.37 Participation by handicapped individuals in the costs of vocational rehabilitation services.**

(a) Financial need. (1) There is no Federal requirement that the financial need of a handicapped individual be considered in the provision of any vocational rehabilitation services.

(2) If the State elects to consider the financial need of handicapped individuals for purposes of determining the extent of their respective participation in the costs of vocational rehabilitation services, the State plan shall set forth the State agency's policies with respect to

the determination of financial need, and shall specify the types of vocational rehabilitation services for which the agency has established an economic needs test. The policies so established shall be reasonable and shall be applied uniformly so that equitable treatment is accorded all handicapped individuals in similar circumstances.

(3) The State plan shall provide that no economic needs test will be applied as a condition for furnishing the following vocational rehabilitation services:

(i) Evaluation, including diagnostic and related services; (ii) counseling and guidance; and (iii) placement.

(b) Consideration of similar benefits.

(1) The State plan shall provide that, in all cases, the State agency will give full consideration to any benefit available to a handicapped individual by way of compensation, insurance, pension, or other similar benefits to meet, in whole or in part, the cost of any vocational rehabilitation services provided to such a handicapped individual, except the following: (i) Evaluation, including diagnostic and related services; (ii) counseling and guidance; (iii) placement; (iv) followup services; (v) training and training materials; (vi) reader services for the blind; (vii) interpreter services for the deaf; and (viii) recruitment and training services to provide new employment opportunities.

(2) Benefits available to a handicapped individual may include, but are not limited to (i) hospital and physicians' services plans; (ii) workmen's compensation, veterans' benefits, old age, survivors' and disability insurance benefits, and unemployment compensation;

(3) The State plan shall provide that when, and to the extent that, an individual is eligible for such benefits, such benefits will be utilized insofar as they are adequate, timely, and do not interfere with achieving the rehabilitation objective of the individual.

**§ 401.38 Administrative review of agency action, and fair hearings.**

(a) The State plan shall provide that an applicant for or recipient of vocational rehabilitation services under the State plan who is dissatisfied with any agency action with regard to the furnishing or denial of services may file a request for an administrative review and redetermination of that action to be made by a member or members of the supervisory staff of the State or local agency. The State plan shall further provide that when the individual is dissatisfied with the finding of this administrative review he shall be granted an opportunity for a fair hearing before the State administrator or his designee.

(b) Each applicant for or recipient of vocational rehabilitation services shall be informed of the opportunity available to him under paragraph (a) of this section.

**§ 401.39 Confidential information.**

(a) The State plan shall provide that the State agency will adopt such regulations as are necessary to assure that:

(1) All information as to personal facts given or made available to the State or local rehabilitation agency, its representatives, or its employees, in the course of the administration of the vocational rehabilitation program, including lists of names and addresses and records of agency evaluation, shall be held to be confidential.

(2) The use of such information and records shall be limited to purposes directly connected with the administration of the vocational rehabilitation program and may not be disclosed, directly or indirectly, other than in the administration thereof, unless the consent of the client to such release has been obtained either expressly or by necessary implication. Release of information to employers in connection with the placement of the client may be considered as release of information in connection with the administration of the vocational rehabilitation program. Such information may, however, be released to welfare agencies or programs from which the client has requested certain services under circumstances from which his consent may be presumed, provided such agencies have adopted regulations which will assure that the information will be held confidential, and can assure that the information will be used only for the purposes for which it is provided. Such information will be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State vocational rehabilitation program (including research for the development of new knowledge or techniques which would be useful in the administration of the program) and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the State agency, without written consent of such person and the State agency.

(3) All such information is the property of the State agency or of the State and local rehabilitation agency, and may be used only in accordance with the agency's regulations.

(b) The State plan shall further provide that the State agency will adopt such procedures and standards as are necessary to (1) give effect to its regulations; (2) assure that all rehabilitation clients and interested persons will be informed as to the confidentiality of vocational rehabilitation information; (3) assure the adoption of such office practices and the availability of such office facilities and equipment as will assure the adequate protection of the confidentiality of such records.

**§ 401.40 Recording of case data.**

The State plan shall provide that the State agency will maintain a record for each case which will contain pertinent information about the individual and the

services provided. The case record shall include the following items to the extent pertinent: (1) Data supporting the determination of eligibility or ineligibility; (2) data supporting the decision to provide extended evaluation services to determine the rehabilitation potential for those individuals for whom the third condition of eligibility cannot be determined immediately, the extended evaluation plan, and progress reports on the extended evaluation; (3) data relating to client participation in the cost of services if the State elects to condition the provision of any services on the financial need of the client; (4) data relating to the eligibility of the individual for similar benefits by way of pension, compensation, and insurance; (5) data supporting the clinical status of the client's disabling condition as stable or slowly progressive in the event that the physical restoration services are provided after the establishment of the three basic conditions of eligibility; (6) data supporting the decision to provide services to family members; (7) a vocational rehabilitation plan, setting forth the vocational rehabilitation objective of the individual, the services needed for his vocational rehabilitation (including services to family members) as determined through the case study and extended evaluation, if provided, and the way in which such services will be provided; (8) the reason and justification for closing the case, including the employment status of the client, and, if the case is closed as employed, the basis on which the employment was determined to be suitable; and (9) data supporting the provision of followup services after case closure to assist the individual to maintain his employment.

#### STATE PLAN CONTENT: SERVICES

##### § 401.41 Scope of agency program.

(a) The State plan shall as a minimum provide that evaluation, including diagnostic and related services, counseling, and guidance, training (including personal and vocational adjustment training), maintenance, physical restoration, placement, and followup services will be provided under the plan.

(b) The State plan shall describe all the services to be provided, the general scope of agency activities to be undertaken, and the categories of expenditures in which the State agency will request Federal financial participation.

##### § 401.42 Standards for facilities and personnel.

The State plan shall provide that the State agency will establish and maintain standards for the various types of facilities and personnel utilized in providing services to handicapped individuals, and shall describe the general content of such standards and the bases on which they were developed. The State plan shall also set forth the methods to be employed for maintaining such standards in accessible form for agency personnel.

##### § 401.43 Rates of payment.

The State plan shall provide for the establishment of rates of payment for diagnostic services, training, physical restoration, or other services purchased for clients, describe the policies used in arriving at such rates, and provide that the State agency will maintain in accessible form information justifying such rates of payment. The State plan shall further provide that individual or other vendors providing any services authorized by the State agency shall agree not to make any charge to or accept any payment from the individual or his family for such services unless the amount of such charge or payment is previously known to and, where applicable, approved by the State agency.

##### § 401.44 Evaluation, including diagnostic and related services.

The State plan shall provide for evaluation, including diagnostic and related services incidental to the determination of eligibility for vocational rehabilitation services and the nature and scope of services to be provided. The State plan shall also describe the diagnostic and related services to be provided for this purpose.

##### § 401.45 Counseling and guidance.

The State plan shall set forth the standards and policies established for maintaining a counseling relationship throughout a handicapped individual's program of services which will assure (a) adequate counseling services to the individual in connection with his vocational potentialities and the health, personal and social problems related to his vocational adjustment; and (b) necessary guidance for him to develop an understanding of his capacities and limitation, in selecting a suitable occupational goal, and in using appropriately the medical services, training, and other rehabilitation services needed to achieve the best possible vocational adjustment. The State plan shall also provide for the securing of reports from agencies, institutions and individuals providing vocational rehabilitation services and for other methods of evaluating the progress in each case which will aid the counselor in his contacts with the handicapped individual.

##### § 401.46 Physical restoration services.

(a) The State plan shall set forth policies that the State agency will follow in furnishing physical restoration services to handicapped individuals to the extent necessary to determine their rehabilitation potential or achieve their vocational rehabilitation. The State plan shall further specify that, with respect to those cases for which the State agency wishes Federal financial participation in expenditures for physical restoration services to handicapped individuals, the following additional criteria are met in each case: (1) Physical restoration services may be expected to eliminate or substantially reduce the handicapping condition within a reasonable period of time; and (2) the clinical status of the

individual's condition is stable or slowly progressive, except when physical restoration services are provided under an extended evaluation plan in order to determine the rehabilitation potential of a handicapped individual.

(b) The State plan shall further specify that eye glasses and visual services may be prescribed and may be provided by either a physician skilled in diseases of the eye or by an optometrist, as authorized under State law.

##### § 401.47 Training.

The State plan shall set forth the policies that the State agency will follow in furnishing training to handicapped individuals to the extent necessary to achieve their vocational rehabilitation. Such training includes vocational, prevocational, personal adjustment training, and other rehabilitation training which contributes to the individual's vocational adjustment; it covers training provided directly by the State agency or procured from other public or private training facilities. The State plan shall also include the State agency's policies with respect to the provision of tools and training materials including books.

##### § 401.48 Maintenance.

The State plan shall specify the policies established for provision of maintenance and shall provide that maintenance will be furnished only in order to enable an individual to derive the full benefit of other vocational rehabilitation services being provided. As needed in the individual case, maintenance may be provided at any time in connection with vocational rehabilitation services from the date of initiation of such services, including diagnostic services, to a reasonable period following placement.

##### § 401.49 Placement.

The State plan shall provide that the State agency will assume responsibility for placement of individuals accepted for service. The State plan shall set forth the standards established for determining if the client is suitably employed and for such followup services as are necessary, prior to case closure, for assuring that the vocational rehabilitation objective of the client has been achieved.

##### § 401.50 Followup services.

The State plan shall provide for followup services after placement and case closure to assist former clients in need of such services to maintain themselves in employment. The State plan shall (1) specify the criteria to be used in selecting individuals to receive followup services; (2) specify the nature and scope of followup services to be provided; and (3) state whether they will be provided directly, by contract, or otherwise.

##### § 401.51 Transportation.

The State plan shall set forth the policies with respect to furnishing transportation incidental to provision of diagnostic or other vocational rehabilitation services under the State plan. Transportation means the necessary travel and



related costs in connection with transporting handicapped individuals and, where necessary, members of their family, for the purpose of providing diagnostic or other vocational rehabilitation services under the State plan. Transportation includes costs of travel and subsistence during travel (or per diem allowances in lieu of subsistence) for handicapped individuals and their attendants or escorts, where such assistance is needed. Transportation may include the cost of relocation and moving expenses necessary for the achievement of a vocational rehabilitation objective.

**§ 401.52 Special services for the blind and deaf.**

The State plan shall set forth the policies that the State agency will follow in providing reader services for the blind and interpreter services for the deaf.

**§ 401.53 Services to family members.**

The State plan shall set forth the policies of the State agency in furnishing services to family members of the handicapped individual. The State plan shall provide that such services may include only those services which may be expected to contribute substantially to the determination of the rehabilitation potential or the rehabilitation of the handicapped individual.

**§ 401.54 Recruitment and training services for new employment opportunities.**

The State plan shall set forth the policies that the State agency will follow in furnishing (directly or by contract) recruitment and training services to provide eligible individuals or groups thereof with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate service employment.

**§ 401.55 Tools, equipment, initial stocks and supplies, occupational licenses.**

The State plan shall describe the policies governing the provision of tools, equipment, initial stocks (including livestock) and supplies and equipment, initial stocks and supplies for vending stands. The State plan shall further describe the conditions governing the provision of occupational licenses.

**§ 401.56 Other goods and services.**

(a) The State plan shall set forth the policies that the State agency will follow in providing other goods and services necessary to render a handicapped individual fit to engage in a gainful occupation or to determine his rehabilitation potential.

(b) The State plan may provide that the agency will furnish short periods of medical care for acute conditions arising in the course of vocational rehabilitation, which, if not cared for, would constitute a hazard to the achievement of the vocational rehabilitation objective, or the completion of the extended evaluation to determine rehabilitation potential.

**§ 401.57 Small business enterprises for the severely handicapped.**

(a) The State plan may provide for management services and supervision provided to small business enterprises (including vending stands) operated by the severely handicapped, and may also provide for establishing such small business enterprises. If the State plan so provides, it shall, to the extent pertinent, (1) describe the types of small business enterprises to be established under the program; (2) describe the policies governing the acquisition of vending stands or other equipment and initial stocks (including livestock) and supplies for such businesses; (3) describe the policies governing the management and supervision of the program; (4) describe how management and supervision will be accomplished either by the State agency, or by some other organization as the nominee of such agency, subject to its control, and (5) provide that only those persons defined as severely handicapped in the State plan will be selected to participate in this supervised program.

(b) If the State plan provides for management services and supervision for small business enterprises, and if the State agency elects to set-aside funds from the proceeds of the operation of such enterprises, the State plan shall describe the methods used in setting aside such funds, and the purposes for which such funds are set-aside. Such funds may be used only for small business enterprise program purposes and any benefits for operators must be provided on an equitable basis.

**§ 401.58 Establishment of rehabilitation facilities.**

The State plan may provide for the establishment of public or other nonprofit rehabilitation facilities. If the State plan so provides, it shall:

(a) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their establishment and that such establishment is consistent with the State rehabilitation facilities plan;

(b) Set forth the standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety and other pertinent conditions and insofar as rehabilitation facilities which are or which include workshops are concerned, shall also set forth criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. In setting forth such standards and criteria, the State plan may incorporate, insofar as applicable, the regulations of the Secretary of Labor relating to safety standards for rehabilitation facilities, the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A 117.1—1961, as modified from time to time, the standards for the design, construction, and alteration of buildings issued by the Ad-

ministrator of General Services pursuant to the act approved August 12, 1968 (Public Law 90-480), and the standards and criteria developed by the Administrator with the advice of the National Policy and Performance Council;

(c) Provide that the primary purpose of the establishment of any rehabilitation facility is to provide vocational rehabilitation services or gainful employment to handicapped individuals, or to provide evaluation and work adjustment services to disadvantaged individuals under Part 402 of this chapter;

(d) Provide that, in cases where initial staffing assistance is provided, such assistance will be available only for personnel who are engaged in new or expanded program activities of the rehabilitation facility; and

(e) Provide that reports concerning the establishment of rehabilitation facilities shall be submitted in such form and shall contain such information as the Administrator may require.

**§ 401.59 Construction of rehabilitation facilities.**

(a) *General provisions.* The State plan may provide for the construction of public or other nonprofit rehabilitation facilities. If the State plan so provides, it shall: (1) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their construction and that such construction is consistent with the State rehabilitation facilities plan; (2) set forth the standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety, and other pertinent conditions and insofar as rehabilitation facilities which are or which include workshops are concerned, shall also set forth criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. In setting forth such standards and criteria, the State plan may incorporate, insofar as applicable, those standards and criteria developed by the Administrator with the advice of the National Policy and Performance Council, the regulations of the Secretary of Labor relating to safety standards for rehabilitation facilities, and the standards for the design, construction, and alteration of buildings issued by the Administrator of General Services pursuant to the act approved August 12, 1968 (Public Law 90-480), and prior to the issuance of these standards, the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A 117.1, as modified from time to time; (3) provide that the primary purpose of the construction of any rehabilitation facility is to provide vocational rehabilitation services or gainful employment to handicapped individuals, or to provide evaluation and work adjustment services to disadvantaged individuals under Part 402 of this chapter; (4) provide that, in cases where initial staffing assistance is

provided, such assistance will be available only for personnel who are engaged in either new or expanded program activities of the rehabilitation facility; (5) provide that the total Federal financial participation in the expenditures for the construction of rehabilitation facilities for a fiscal year obligated during that fiscal year shall not exceed 10 per centum of the State's allotment for such year under section 2 of the act; (6) provide that the amount of the State's share of expenditures for vocational rehabilitation services under the plan, other than for the construction of rehabilitation facilities, shall be at least equal to the average of its expenditures for such other vocational rehabilitation services for the preceding three fiscal years; and (7) provide that reports concerning the construction of rehabilitation facilities shall be submitted in such form and shall contain such information as the Administrator may require.

(b) *Assurances.* The State plan shall provide that any proposal, relating to the construction of a rehabilitation facility, will be accompanied by assurances: (1) That for a period of time not less than 20 years after completion of construction of the rehabilitation facility, it will be used as a public or other nonprofit rehabilitation facility, and that such assurance runs to the Federal Government, to the extent of the Federal interest. (See paragraph (d) of this section); (2) that sufficient funds will be available to meet the non-Federal share of the cost of construction of the rehabilitation facility in terms of funds immediately available, placed in escrow, or acceptably pledged, or funds or fund sources specifically earmarked in a sum sufficient for that purpose, or other assurances which are acceptable to the State agency, or, in cases where the State agency is constructing the rehabilitation facility for its own use, such assurances as are acceptable to the Administrator; (3) that sufficient funds will be available when construction of the rehabilitation facility is completed, for its effective use as a rehabilitation facility, as evidenced by a proposed operating budget for the 2-year period immediately following completion of the construction or by such other evidence acceptable to the State agency or, in cases where the State agency is constructing the rehabilitation facility for its own use, such evidence as is acceptable to the Administrator; (4) that, as evidenced in the plans and specifications which accompany or supplement the construction proposal, all rehabilitation facilities will be constructed according to minimum standards of construction and equipment for rehabilitation facilities prescribed by the Administrator for the construction of rehabilitation facilities as provided for in Part 404 of this chapter, and according to regulations of the Secretary of Labor relating to safety standards for rehabilitation facilities; (5) that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the rehabilitation facility will be paid wages at rates not less than those prevailing on similar construction

in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.) and will receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of 8 hours in any calendar day or 40 hours in the workweek (40 U.S.C. 327-332); and (6) that the State agency shall furnish such other assurances as the Administrator may require to insure that standards and procedures for the construction of rehabilitation facilities under this part will, to the extent possible, be consistent with standards and procedures for the construction of rehabilitation facilities in Part 404 of this chapter;

(c) *Procedures.* The State plan shall provide that the State agency shall forward each proposal for the construction of a rehabilitation facility to the Regional Commissioner for review and recommendation prior to approval of the proposal by the State agency. Such proposals shall contain or be accompanied by a statement indicating the relationship of the proposal to the purposes and priorities established in the State rehabilitation facilities plan and the manner and extent to which the proposed rehabilitation facility will increase the scope and effectiveness of rehabilitation programs within the State with specific reference to the program of the State agency. The Regional Commissioner shall notify the State agency in writing of his recommendations on the proposal. When proposals do not meet the requirements of this construction program, the Regional Commissioner shall consult with the State agency concerning necessary revision. The Administrator may require that, where appropriate, a technical assistance consultation (see § 404.4) precede the construction of rehabilitation facility;

(d) *Recovery.* If, within 20 years after completion of any construction of a Rehabilitation facility under this section, the rehabilitation facility ceases to be a public or other nonprofit rehabilitation facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the U.S. district court for the district in which such facility is situated) of the facility, as the amount of the Federal financial participation bore to the total cost of construction of such facility.

#### § 401.60 Facilities and services for groups of handicapped individuals.

The State plan shall set forth the policies that the State agency will follow in providing facilities and services which may be expected to contribute substantially to the rehabilitation of a group of individuals, but which are not related directly to the rehabilitation plan of any one handicapped individual. Facilities and services of this type may include, but are not limited to, the removal of architectural barriers from buildings to be used for the training or employment of handicapped individuals, the develop-

ment or provision of instructional materials or services for a group of handicapped individuals, or the provision of a special bus or other vehicle for the transportation of handicapped individuals.

#### § 401.61 Services to civil employees of the United States.

The State plan shall provide that vocational rehabilitation services will be made available to civil employees of the U.S. Government who are disabled in line of duty, under the same conditions as are applied to other handicapped individuals.

#### § 401.62 Authorization of services.

The State plan shall set forth the State agency's policies with respect to authorization of services and shall provide that authorization will be made either simultaneously with or prior to the purchase of services, and that a written record of such authorization will be retained. Where agency policy permits that oral authorization may be made in an emergency situation by an employee of the State or local rehabilitation agency, the State plan shall provide for documentation of such oral authorization in the client's case record.

### Subpart C—Financing of State Vocational Rehabilitation Programs

#### FEDERAL FINANCIAL PARTICIPATION

#### § 401.70 Effect of State rules.

Subject to the provision and limitations of the act and this part, Federal financial participation will be available in expenditures made under the State plan (including the administration thereof) in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local rehabilitation agencies.

#### § 401.71 Vocational rehabilitation services to individuals.

(a) Federal financial participation will be available in expenditures made under the State plan for providing evaluation, including diagnostic and related services, incidental to the determination of eligibility for and the nature and scope of services to be provided, including the determination of the need for an extended evaluation of rehabilitation potential.

(b) Federal financial participation will also be available in expenditures made under the State plan for providing the following vocational rehabilitation services to handicapped individuals (see § 401.1(i)):

- (1) Counseling and guidance.
- (2) Training services, including personal and vocational adjustment.
- (3) Books and training materials, including tools necessary for training.
- (4) Physical restoration services.
- (5) Maintenance.
- (6) Transportation.
- (7) Reader services for the blind.
- (8) Interpreter services for the deaf.
- (9) Services to members of the handicapped individual's family when such services will contribute substantially to

the determination of rehabilitation potential or the rehabilitation of the handicapped individual.

(10) Other goods and services (such as attendant services) not contraindicated by the act and this part, necessary to determine the rehabilitation potential of a handicapped individual or to render him fit to engage in a gainful occupation. This may include expenditures for short periods of medical care for acute conditions arising during the course of rehabilitation, which, if not cared for, would constitute a hazard to the determination of the rehabilitation potential or to the achievement of the vocational objective.

(c) Federal financial participation will also be available in expenditures for the following additional vocational rehabilitation services provided to individuals found eligible under § 401.30(b):

(1) Business and occupational licenses.  
(2) Tools, equipment, and initial stocks (including livestock) and supplies; equipment and initial stocks and supplies for vending stands. "Equipment" as used herein includes shelters. Shelters are only those facilities for a business undertaking which are customarily furnished by the operator of a like undertaking occupying premises under a short-term lease.

(3) Recruitment and training services for new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate service employment.

(4) Placement.  
(5) Followup services.

(d) Federal financial participation will not be available in any expenditure made, either directly or indirectly, for the purchase of any land, or for the purchase or erection of any building for any one handicapped individual. This exclusion with respect to buildings does not apply to shelters as described in paragraph (c) (2) of this section.

#### § 401.72 Small business enterprises for the severely handicapped.

(a) Federal financial participation will be available in expenditures made under the State plan for the acquisition of equipment, and initial stocks (including livestock) and supplies for small business enterprises (including vending stands) for the severely handicapped and management services and supervision provided to such small business enterprises. "Equipment" as used herein includes shelters. Shelters are only those facilities for a business undertaking which are customarily furnished by the operator of a like undertaking occupying premises under a short-term lease. Federal financial participation will not be available in any expenditure for the purchase of any land, nor for the purchase, or erection of any building. This exclusion with respect to buildings does not apply to shelters as described in the third sentence of this section.

(b) Federal financial participation is available for expenditures specified under paragraph (a) of this section, which are made from funds set-aside by the State

agency from the proceeds of the operation of small business enterprises for the severely handicapped under its management and supervision.

#### § 401.73 Establishment of public and other nonprofit rehabilitation facilities.

(a) Federal financial participation will be available in expenditures made under the State plan for the establishment of public and other nonprofit rehabilitation facilities for the following types of expenditures: (1) Costs of remodeling and alteration of existing buildings; (2) costs of expansion of existing buildings, except as provided in paragraph (b) of this section; (3) initial equipment of existing buildings; and (4) initial staffing of rehabilitation facilities.

(b) Federal financial participation will not be available in any expenditures (1) for the purchase or rental of any land or buildings in connection with the establishment of rehabilitation facilities; (2) for the expansion of an existing building which has not been completed in all respects; (3) for the expansion of an existing building to the extent that the total size of the resultant expanded building, determined in square footage of usable space, will be greater than twice the size of the original existing building; or (4) for the expansion of an existing building if the method of joining the expanded portion to the existing building indicates that, in effect, a separate structure is involved.

(c) The amount of Federal financial participation in the establishment of a rehabilitation facility, including initial equipment, and initial staffing for a period not to exceed 4 years and 3 months, shall be 75 per centum for the fiscal year ending June 30, 1969, and 80 per centum for each subsequent fiscal year.

#### § 401.74 Construction of public and other nonprofit rehabilitation facilities.

(a) Federal financial participation will be available in expenditures made under the State plan for the construction of public or other nonprofit rehabilitation facilities for the following types of expenditures: (1) Costs of construction of new buildings and expansion of existing buildings when the expansion is extensive enough to be tantamount to new construction; (2) architect's fees; (3) acquisition of existing buildings; (4) acquisition of land in connection with the construction or acquisition of a rehabilitation facility; (5) site survey and soil investigations; (6) supervision and inspection at the site; (7) initial equipment of such new, expanded, or newly acquired buildings; (8) initial staffing thereof; and (9) such other costs as are appropriate to the construction project: *Provided, however*, that Federal financial participation will not be available for the costs of offsite improvements.

(b) The amount of Federal financial participation in the construction of a rehabilitation facility, including initial equipment, and initial staffing for a period not to exceed 4 years and 3

months, shall be equal to the same percentage as the Federal share which would be applicable in a project in the case of a rehabilitation facility (as defined in section 625(g)) of the Public Health Service Act, 42, U.S.C. 2910(g) in the same location.

#### § 401.75 Facilities and services for groups of handicapped individuals.

Federal financial participation will be available in expenditures made under a State plan for the provision of other facilities and services which may be expected to contribute substantially to the rehabilitation of a group of handicapped individuals but which are not related directly to the rehabilitation plan of any one handicapped individual.

#### § 401.76 Administration.

(a) Federal financial participation will be available in expenditures under the State plan for administration. Administration includes, among other things: Annual and long-range program planning, development, evaluation, and control; research; interpretation of the program to the public; personnel administration; use of advisory committees; and staff development, including educational leave. All expenditures for administration in which Federal financial participation is claimed must be subject to the administrative or supervisory control of the State agency, or, if performed by some other agency of the State, must be subject to such terms of a cooperative arrangement as will serve to assure consistency with the State agency's policies and objectives.

#### § 401.77 Purchase of goods, facilities, or services from other agencies of the State.

Federal financial participation will be available in expenditures under the State plan for payment of the costs incurred by other agencies of the State furnishing goods, facilities, or services to the State agency: *Provided*, That (a) such payments are permissible under State law; (b) such costs are incurred to meet the needs of the State agency, and are not costs attributable to the general expense of the State in carrying out the overall coordinating, fiscal, and administrative functions of the State government; and (c) such costs are extra, identifiable, and readily ascertainable either by segregation or as a pro rata share of the cost of such goods, facilities, or services.

#### § 401.78 Insurance and taxes.

Federal financial participation will be available in expenditures made under the State plan for (a) the State or local rehabilitation agency's share of costs in employee benefit programs, such as retirement, group life and hospitalization insurance; (b) workmen's compensation; (c) burglary, robbery, and fire insurance, if permitted by the State, and reasonably necessary to protect funds in transit or in the custody of State or local agency personnel; (d) motor vehicle liability costs, where the State accepts responsibility for such loss; and (e) Federal,

State, and local taxes, if the State or local rehabilitation agency is legally obligated to pay such taxes, and provided that all comparable agencies in the State are uniformly treated.

#### § 401.79 Cost of space.

(a) Federal financial participation will be available in expenditures made under the State plan for costs of space for State or local rehabilitation agencies that are incurred (1) for paying rent and service and maintenance costs in privately owned buildings; (2) in meeting the costs of service and maintenance in lieu of rent in publicly owned buildings; (3) in meeting rental charges in federally and municipally owned buildings, where the municipality is not administering the vocational rehabilitation program locally; (4) in making necessary repairs and alterations to either privately or publicly owned buildings; and (5) for monthly rental charges, based on the cost of initial construction or purchase of State or locally owned buildings.

(b) All expense for space must be based on an actual rental charge or a monthly rental rate that is a reasonable approximation of actual cost over a long-run period. Federal financial participation is available only for periods when the State or local agency occupies the space, and where the rate for any type of cost or combination does not exceed comparable rental in the particular community. Whenever the total charges for service and maintenance in lieu of rent in public owned buildings (paragraph (a) (2) of this section), or the monthly rental charge based on the cost of initial construction or purchase of publicly owned buildings (paragraph (a) (5) of this section), exceed 75 per centum of the comparable rental, Federal financial participation will be available only upon special justification by the State agency.

#### § 401.80 State and local funds.

(a) In order to receive the Federal share of expenditures under the State plan, expenditures from State or local funds under such plan equal to the State's share must be made. Such funds may not consist of Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. The State's share shall be the difference between the Federal share (see §§ 401.86 and 401.135) and 100 per centum.

(b) For the purposes of this section, "State or local funds" means (1) funds made available by appropriation directly to the State or local rehabilitation agency, funds made available by allotment or transfer from a general departmental appropriation, or funds otherwise made available to the State or local rehabilitation agency by any unit of State or local government, including any funds, goods or services made available by such unit for vocational rehabilitation activities under cooperative programs pursuant to § 401.11; (2) con-

tributions by private organizations or individuals, which are deposited in the account of the State or local rehabilitation agency in accordance with State law, for expenditure by, and at the sole discretion of, the State or local rehabilitation agency: *Provided, however,* That such contributions earmarked for meeting the State's share for providing particular services, for serving certain types of disabilities, for providing services for special groups which are identified on the basis of criteria which would be acceptable for the earmarking of public funds, or for carrying on types of administrative activities so identified, may be deemed to be State funds, if permissible under State law; or (3) contributions by private organizations or individuals, deposited in the account of the State or local rehabilitation agency in accordance with State law, which are earmarked, under a condition imposed by the contributor, for meeting (in whole or in part) the State's share for establishing or constructing a particular rehabilitation facility, if permissible under State law: *Provided, however,* That such funds may be used to earn Federal funds only with respect to expenditures for establishing or constructing the particular rehabilitation facility for which the contributions are earmarked: *Provided further,* That such funds shall be subject to any limitation that the Administrator may impose pertaining to the amount of Federal funds available for paying the Federal share of expenditures for such establishment or construction.

#### § 401.81 Shared funding and administration of joint projects.

Where the Administrator has approved a request by the State agency to participate in a joint project with another agency or agencies of the State in accordance with § 401.9, Federal financial participation will be available in the State agency share of the costs of carrying out the joint project.

#### § 401.82 Waiver of Statewideness.

If the approved State plan provides for activities to be carried out in one or more, political subdivisions through local financing (§ 401.10), Federal financial participation will be available in expenditures made under the State plan for vocational rehabilitation services and administration in connection with such activities in accordance with the provisions of this subpart, except that funds made available to the State agency by such political subdivisions of the State (including funds contributed to such a subdivision by a private agency, organization or individual) may be earmarked for use within a specific geographical area or for use at a specific facility or for the benefit of a group of individuals with a particular disability: *Provided,* That nothing in this paragraph shall authorize the further earmarking of funds for a particular individual, for members of a particular organization, and that Federal financial participation will not be available in expenditures that revert to the donor's facility.

#### ALLOTMENT AND PAYMENT

#### § 401.85 Allotment of Federal funds for vocational rehabilitation services.

(a) For each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized by the act to be appropriated for that fiscal year for making grants to States for meeting the cost of vocational rehabilitation services under section 2 of the act as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all States, subject to the provision in paragraph (b) of this section. For any fiscal year the allotment to any State (other than the Virgin Islands, Puerto Rico, and Guam) which is less than \$1 million shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments of each of the remaining such States, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(1) Population, as applied to any State, means the population of that State as determined by official estimates furnished to the Administrator by the Bureau of the Census by October 1 of the year preceding the fiscal year for which Federal grant funds are appropriated.

(2) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States (i.e., the 50 States, and the District of Columbia), except that the allotment percentage shall in no case be more than 75 per centum or less than 33½ per centum, and the allotment percentage for the District of Columbia, Puerto Rico, the Virgin Islands, and Guam shall be 75 per centum.

(3) The allotment percentage shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita income of the States and of the United States (i.e., the 50 States and the District of Columbia) for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the 2 fiscal years in the period beginning July 1, next succeeding such promulgation.

(b) The allotment to any State for any fiscal year, as computed under paragraph (a) of this section, which is less than the amount such State was entitled to receive for the fiscal year ending June 30, 1965, pursuant to section 2 of the act as then in effect, as the Federal share of its expenditures under its State plan for vocational rehabilitation services, shall be increased to that amount. The amount which a State was entitled to receive for fiscal year 1965, pursuant to the preceding sentence, shall be determined on the basis of such information, including reports from the State, as the Social and



Rehabilitation Service had on November 8, 1965. The total of any increases required under this paragraph shall be derived by proportionately reducing the allotment of each of the States whose allotments were not subject to the increase, but with such adjustments as may be necessary to prevent the allotment of any State from being thereby reduced to less than the amount the State was entitled to receive for the fiscal year ending June 30, 1965, pursuant to section 2 as then in effect.

(c) (1) No part of the allotment to any State for grants under section 2 of the act for any fiscal year may be used for the purposes specified in § 401.80(b) (3), in excess of any limitation imposed under that section by the Administrator.

(2) Any such limitation shall be imposed through allocations to the States. The allocations to the States for any fiscal year shall be made initially on the basis of population, with such adjustments as may be necessary to make available to each State an allocation of \$25,000 or such other standard minimum amount as the Administrator may find necessary to support a useful project in each State.

(3) The Administrator may make re-allocations for any fiscal year from time to time of amounts released by the States or determined by the Administrator not to be reasonably expected to be used by the States within the fiscal year. Additional allocations may be made to States which have need of them as evidenced by approvable project proposals. Priority for additional allocations shall be given on the basis of National, State and local program needs, with due regard for the importance of promoting a nationwide distribution of rehabilitation facilities of high quality. A State's allocation as increased or decreased pursuant to this subparagraph shall be its allocation for the fiscal year.

(d) Where the State plan designates separate agencies to administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, the division of the State's allotment pursuant to paragraphs (a) and (b) of this section and the State's allocation pursuant to paragraph (c) of this section between such agencies is a matter for State determination.

(e) Where the State plan provides for the construction of rehabilitation facilities, the total Federal financial participation in the expenditures for construction for a fiscal year obligated during that fiscal year may not exceed 10 per centum of the State's allotment for such year. The amount of the State's share of expenditures for vocational rehabilitation services other than the construction of rehabilitation facilities shall be at least equal to the average of its expenditures for such other vocational rehabilitation services for the preceding 3 fiscal years.

#### § 401.86 Payments from allotments.

(a) Except as provided in paragraph (b) of this section, the Administrator

shall pay to each State an amount equal to the Federal share of the cost of vocational rehabilitation services under its approved State plan, including the cost of administration of the plan. The Federal share for each State for the fiscal year ending June 30, 1969, shall be 75 per centum, and 80 per centum for the fiscal year ending June 30, 1970, and for each subsequent fiscal year, except for expenditures to meet the cost of construction of rehabilitation facilities.

(b) (1) The total of payments to a State under paragraph (a) of this section for any fiscal year may not exceed its allotment under § 401.85 for such year and such payments shall not be made in any amount which would result in a violation of the provision specified in § 401.85(e).

(2) Amounts otherwise payable to a State under this section for any fiscal year shall be reduced by the amount (if any) by which expenditures from non-Federal sources, as specified in § 401.80 (except for expenditures with respect to which the State is entitled to payments under § 401.135) for such fiscal year under such State's approved plan for vocational rehabilitation services are less than such expenditures under such plan for the fiscal year ending June 30, 1969. The expenditures under the State plan for fiscal year 1969, pursuant to the preceding sentence, shall be determined on the basis of such information, including reports from the States, as the Social and Rehabilitation Service had on January 1, 1970. If a reduction in payments for any fiscal year is required in the case of a State where separate agencies administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, such reduction shall be made in direct relation to the amount by which expenditures from non-Federal sources under each part of the plan are less than they were under that part of the plan during the fiscal year ending June 30, 1969.

#### § 401.87 Method of computing and making payments.

(a) *Estimates.* The Administrator shall, prior to each fiscal quarter or other period prescribed by him, estimate the amount to be paid each State from its allotment for vocational rehabilitation services under section 2 of the act and its allotment for innovation projects under section 3 of the act. This estimate will be based on such records of the State and information furnished by it, and such other investigation, as the Administrator may find necessary.

(b) *Payments.* The Administrator shall pay, from the allotment available therefor, the amount so estimated for such period. In making any such payment, such additions and subtractions will be made as the State's accounting for any prior period and audit thereof may indicate as necessary in balancing the Federal-State account for any such prior period. Payments shall be made prior to audit or settlement by the General Accounting Office, shall be made

through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Administrator may determine.

#### § 401.88 Effect of payments.

(a) Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Secretary or Administrator to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any requirement of the act or of this part.

(b) The final amount to be paid for any period is determinable on the basis of expenditures under the State plan for authorized. The State assumes absolute which Federal financial participation is authorized. The State assumes absolute responsibility for the initial application of Federal funds to authorized plan purposes. The State will be required to make transfers and adjustments to discharge its accountability to the Federal Government.

#### § 401.89 Refunds.

Any amount refunded or repaid to the State shall be credited to the Federal account in proportion to the Federal participation in the expenditures by reason of which such refunds or repayments were made, and such sums shall be considered as granted from the State's allotment.

#### § 401.90 Determining to which fiscal year an expenditure is chargeable.

In determining to which Federal fiscal year expenditures are chargeable for the purpose of earning the State's allotment under section 2 or section 3 of the act, State laws and regulations for determining to which State fiscal year an expenditure is chargeable will be followed. In those States which appropriate funds for a biennium and do not distinguish between the separate fiscal years of the biennium, the principles provided in State laws and regulations for determining to which biennium an expenditure should be charged will be applied in determining to which Federal fiscal year in the biennium an expenditure is properly chargeable. In those States where the State fiscal year does not coincide with the Federal fiscal year, State laws and regulations for determining to which State fiscal year an expenditure is chargeable will be applied to the Federal fiscal year.

#### Subpart D—Payment of Costs of Vocational Rehabilitation Services to Disability Beneficiaries From the Social Security Trust Funds

##### § 401.110 General.

(a) Pursuant to section 336 of the Social Security Amendments of 1965 (Public Law 89-97), section 222 of the Social Security Act as amended provides for the payment from the trust funds of costs of vocational rehabilitation services furnished to disability beneficiaries. Within the limits authorized under section 222, as amended, trust funds will be

available for payment by the Administrator to the States to provide for vocational rehabilitation services (and related costs of administration) for disability beneficiaries under State plans approved under section 5 of the act.

(b) To receive trust funds for vocational rehabilitation, each State agency is required to submit to the Regional Commissioner for approval an amendment to its State plan which sets forth its policy and procedures for providing vocational rehabilitation services to disability beneficiaries in keeping with the purposes and objectives as stated below and which meets the requirements and conditions prescribed herein.

#### § 401.111 Purposes and objectives.

With the objective of making it possible for more disability beneficiaries to receive vocational rehabilitation services, money is made available from the trust funds to finance the vocational rehabilitation of selected beneficiaries. It is the intent of Congress that this money will be used in such a way that the saving from the amount of benefits that would otherwise have to be paid and the increased contributions to the trust funds paid by virtue of the earnings of beneficiaries who return to work will exceed, or at least equal, the money paid from the trust funds for rehabilitation costs. In addition to the offsetting gains that the trust funds are expected to realize there will be gains to the individual concerned and to society when the disabled individuals are returned to productive activity. In order to maximize the values to be obtained from the program, States will act promptly to provide the appropriate vocational rehabilitation services utilizing such regular and special rehabilitation techniques and facilities as will help the maximum number of disability beneficiaries to engage in productive activity. The term "productive activity" in the context of this subpart is closely related to "ability to engage in substantial gainful activity" as that phrase is used in 20 CFR 404.1532f, i.e., either actual performance of such activity (as distinguished from engagement in a lesser, but still gainful, occupation) or other indication of existence of a residual capacity to engage in such activity.

#### § 401.112 Applicability of other regulations.

The provisions governing vocational rehabilitation services to disability beneficiaries, the costs of which are paid from trust funds, must conform to all requirements elsewhere in this part governing the State vocational rehabilitation programs which are not inconsistent with the requirements prescribed in this subpart.

#### § 401.113 Definitions.

(a) "Disability beneficiary" means a disabled individual who is entitled to benefits under section 223 of the Social Security Act (including disabled individuals serving a waiting period prior to such entitlement), a disabled individual over age 18 who is entitled to child's in-

surance benefits under section 202(d) of the Social Security Act, or a disabled widow, widower, or surviving divorced wife under section 202 (e) and (f) of the Social Security Act.

(b) "Productive activity" means full-time or substantial part-time employment or self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in termination or non-payment of social security disability benefits.

(c) "Trust funds" means funds derived from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for purposes of vocational rehabilitation pursuant to section 222(d) of the Social Security Act.

#### § 401.114 State plan requirements.

For a State to receive trust funds the State plan must contain the following provisions regarding vocational rehabilitation services to disability beneficiaries:

(a) *Conformance to selection criteria.* The State plan shall provide that, to the extent funds provided from the trust funds are adequate for that purpose, vocational rehabilitation services will be furnished to disability beneficiaries in the State who the State determines on the basis of medical, vocational, social, personal, or other factors are otherwise eligible for services and who meet the following requirements:

(1) There is present a disabling physical or mental impairment which is not so rapidly progressive as to outrun the effect of vocational rehabilitation services, or to preclude restoration of the beneficiary to productive activity;

(2) The disabling effect of the impairment, without the services planned, is expected to remain at a level of severity which would result in the continuing payment of disability benefits;

(3) There is a reasonable expectation that the provision of such services will result in the restoration of the individual to productive activity; and

(4) The reasonably predictable period of productive work activity is of sufficient duration that the benefits to be saved and the contributions which would be paid to the trust funds on future earnings would offset the cost of the services planned.

(b) *Order of selection.* The State plan shall provide that the order of selection for services shall be in accordance with the beneficiary's readiness and potential for rehabilitation to productive activity and without regard to any order of selection which would otherwise be followed under the State plan pursuant to the act.

(c) *Citizenship, residence, and economic need.* The State plan shall provide that any disability beneficiary who meets the other requirements for selection for vocational rehabilitation services shall be provided with authorized services without regard to (1) his citizenship, or (2) his place of residence, or (3) his need for financial assistance.

(d) *Promptness of services.* The State plan shall provide that services will be furnished with reasonable promptness to disability beneficiaries selected under paragraphs (a), (b), and (c) of this section.

(e) *Services available.* The State plan shall provide that vocational rehabilitation services available to disability beneficiaries selected for such services shall include the full range of services authorized in the act, subject to the conditions and limitations with respect to the use of trust funds prescribed in § 401.115.

#### § 401.115 Costs of services—conditions and limitations.

Costs of vocational rehabilitation services (and administration) paid from trust funds shall be subject to the following conditions and limitations:

(a) Except as otherwise provided in this subpart, costs shall be subject to all requirements for Federal financial participation set forth in the regulations governing the State vocational rehabilitation programs. (See subpart C of this part.)

(b) Trust funds will not be used to pay costs of establishment or construction of a rehabilitation facility.

(c) Trust funds will not be used to pay the costs of maintenance while an individual is receiving vocational rehabilitation services unless it is necessary for the individual to be away from home to receive such services. The costs of such maintenance shall not exceed the amount of increased expenses that the rehabilitation program causes for the individual or his family.

(d) The amount of the expenditure made under the State plan for services in behalf of a disability beneficiary and for which a State may receive payment of the costs from trust funds shall not exceed such maximum amount for any one beneficiary as may be federally prescribed.

(e) Where trust funds are used to provide equipment, including vending stands, or initial stock to a disability beneficiary, or where such funds are used to equip and stock a small business enterprise for the rehabilitation of a disability beneficiary, the State agency shall establish appropriate conditions to assure the use of such equipment and stock by another disability beneficiary if such stock and equipment are no longer required for the previous beneficiary.

#### § 401.116 Payments of trust funds.

(a) *Effective dates of payments.* Payment to any State from trust funds in accordance with this subpart may commence with the effective date of the approved amended State plan.

(b) *Payments for services and administration.* (1) Trust funds will be available subject to statutory limitations, to any limitations set forth in this subpart, and to the approval of the Administrator, to pay for expenditures made under the approved amended State plan for authorized vocational rehabilitation services provided to disability beneficiaries, including the administration thereof.



(2) Payment from the trust funds may be made for determining the eligibility for and the character of vocational rehabilitation services needed by a disability beneficiary, or by a claimant for disability benefits if it appears there is a strong likelihood that such claimant will be found entitled to such disability benefits (even though later he is not so found), to the extent that such services were furnished to such claimant prior to the receipt by the State agency of notice of a determination of nonentitlement.

(3) Other authorized services provided prior to determination to persons meeting the selection criteria may be paid for from trust funds if and when the State agency receives notice that the individual has been determined to be entitled to disability benefits.

(4) In no case, however, may services be paid for from the trust funds which are provided before (i) the effective date of the approved amended State plan, (ii) the beginning of the period of disability, or (iii) the filing of application for disability benefits, whichever is latest, or in the case of a disabled child the date of entitlement to child's benefits because of disability.

(c) *Reversal of determination of non-eligibility for disability benefits.* Payment from the trust funds for services which have been rendered to a claimant otherwise eligible therefor who has been found not entitled to disability benefits may, if such finding is later reversed on reconsideration, appeal, or judicial review, be made retroactively for the fiscal year in which notice of the reversal is received by the State agency, provided at that time services are being currently rendered to the claimant.

(d) *Termination of disability benefits.* Payment for services after receipt by the State agency of notice that entitlement to disability benefits has terminated shall not be made from trust funds, except when the services have been started and the individual case plan reflects that commitments of monies have been made for those services prior to receipt of notice of such termination, i.e., written contracts, purchase orders, or equivalent authorizations have been issued, or lump sum payment may have been required to have been made in advance such as in the case of tuition or training expenses. In no case may payment be made for costs of services extending more than 4 months after the month in which entitlement to disability benefits terminates or in which notice that entitlement to disability benefits has terminated is received by the State agency, whichever is later.

(e) *Distribution and payment of funds.* (1) Payment from available trust funds may be made in advance or by way of reimbursement, as determined by the Administrator, for agency costs of providing services to disability beneficiaries under this subpart.

(2) In distributing funds to the States, the Administrator will consider agency estimates, the number of disability beneficiaries in the State, and such other factors as the Administrator may determine.

(3) The Administrator will make necessary adjustments or redistribution on account of overpayments, underpayments, and unused funds.

#### § 401.117 Budgets.

Periodically, as may be required, the State shall prepare and submit through the Regional Commissioner for the approval of the Administrator a budget estimate of trust funds needed to pay the costs of vocational rehabilitation services for disability beneficiaries and for the administration of such services.

#### § 401.118 Reports.

The State shall submit reports of expenditures and case service activities in behalf of beneficiaries, in such form and in such detail and frequency as required by the Administrator. All records, procedures, and operational activities of the State agency, the costs of which are paid from trust funds, shall be subject to inspection, review, and audit.

#### Subpart E—Grants to States for Innovation of Vocational Rehabilitation Services.

#### § 401.130 Purpose.

Under section 3 of the act, States providing vocational rehabilitation services under an approved State plan may receive grants to assist them in undertaking organized identifiable project activities which: (1) Provide for the development of new methods or techniques for providing vocational rehabilitation services for handicapped individuals; or (2) are especially designed for the development of, or provision for, new or expanded vocational rehabilitation services for groups of handicapped individuals having disabilities which are catastrophic or particularly severe. Whether the methods or techniques are new, or expanded, shall be determined in relation to the program existing in the State.

#### § 401.131 Application procedure.

An application for an innovation project may be submitted by a State agency to the Regional Commissioner at any time, in such form and detail as the Administrator may prescribe. The Regional Commissioner will review each application and determine, after consultation with the State regarding any suggested revision, whether such application meets the requirements for an innovation grant, and will send written notification of his finding to the State.

#### § 401.132 Application content.

Each application submitted shall (a) describe the specific activities to be undertaken, showing how they: (1) Will lead to the development of new methods or techniques for providing vocational rehabilitation services; or (2) will offer new or expanded services for groups of handicapped individuals whose disabilities are particularly severe or catastrophic; (b) specify the duration of the project; (c) set forth the budget for the project and the method for meeting costs; (d) provide that qualified and adequate staff and supervision are avail-

able to accomplish the purpose of the project; and (e) supply such other information as the Administrator may find necessary.

#### § 401.133 Project activities.

(a) All project activities to be performed within innovation projects must either already be included within the scope of the State's approved plan, or such plan must be amended to include them.

(b) Innovation project activities may include, but are not limited to: (1) The provision of vocational rehabilitation services to paraplegics, quadriplegics, stroke and cancer victims, the totally deaf, the deaf blind, the retarded blind, and others who have been inadequately served because of the severity of their disabilities or the costs involved; (2) the introduction of new patterns or techniques of vocational rehabilitation services; (3) the construction or establishment of rehabilitation facilities unique in that State and in conformity with the State rehabilitation facilities plan; and (4) the development of service programs in cooperation with other public agencies which provide new methods and techniques for serving the handicapped, especially those individuals having disabilities which are catastrophic or particularly severe. Projects may be statewide in scope or limited to a geographical area of the State.

(c) Innovation grants will not be made for projects designed primarily to: (1) Train staff; (2) improve administrative procedures unless it can be shown clearly that such improvements will bring services to new groups of clients; or (3) establish or construct rehabilitation facilities of a type already found in the State.

#### § 401.134 Allotment of Federal funds for innovation projects.

(a) From the sums available for any fiscal year for grants to States to assist them in meeting the costs of approved innovation projects, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. Population, as applied to any State, means the population of that State as determined by official estimates furnished by the Bureau of the Census to the Administrator by October 1 of the year preceding the fiscal year for which Federal grant funds are appropriated. For any fiscal year the allotment to any State which is less than \$5,000 (or such other amount as may be specified as a minimum allotment in the act appropriating such sums for such year) shall be increased to that amount, the total of the increases thereby being derived by proportionately reducing the allotments to each of the remaining States but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) When the Administrator determines that any amount of an allotment to a State for the fiscal year ending June 30, 1970, and for each subsequent

fiscal year, will not be utilized by such State in carrying out the purposes of this subpart, he shall make such amount available to one or more other States which he determines will be able to use additional amounts during such fiscal year for carrying out the purposes of this subpart. Any amount made available to any State for any fiscal year pursuant to this paragraph of this section shall be regarded as an increase in such State's allotment for such year.

(c) Where the State plan designates separate agencies to administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, the division of the State's allotment between such agencies is a matter for State determination.

#### § 401.135 Payments from allotments.

(a) Payments with respect to any innovation project may be made for a period not exceeding 5 years, beginning with the commencement of the first fiscal year for which any payment is made for such project under paragraph (b) of this section.

(b) From the sums allotted pursuant to § 401.134, the Administrator shall pay to each State, with respect to any approved innovation project, an amount equal to 90 per centum of the cost of such project (including its administration), for the first 3 years of such project and 75 per centum of the cost of such project (including its administration) for the fourth and fifth years, except that, at the request of the State, such payments may be less than such percentage of the cost of such project.

(c) For purposes of determining the commencement of Federal participation of any innovation project, the effective date for the commencement of such project shall be the date of its submission for approval (or a later date, at the request of the State).

(d) No payment shall be made from an allotment under section 3 of the act with respect to any cost of an innovation project for which payment has been made under any other section of the act.

#### § 401.136 Continuation grants for innovation projects; reports.

A progress report will be submitted annually in the form and containing the information prescribed by the Administrator with the State's request for a continuation grant for the project. Such request for continuation will include a budget for the next year. The Regional Commissioner will review each application for a continuation grant and determine whether the project continues to meet the requirements for an innovation grant, and he will notify the State in writing of his findings. The final project will be submitted not later than 90 days following termination of the project.

#### § 401.137 Project amendments.

Any amendment to an approved innovation project shall be submitted whenever necessary to reflect material

change in the scope, operation, or administration of the project. Such amendments shall be submitted in writing to the Regional Commissioner for approval. If for any reason an approved project is discontinued, the State agency shall notify the Regional Commissioner, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information.

#### § 401.138 Methods of computing and making payments.

The methods of computing and paying amounts pursuant to § 401.135 shall be in accordance with provisions of § 401.87. The provisions of §§ 401.88 through 401.90 are also applicable to this subpart.

### PART 402—THE STATE VOCATIONAL EVALUATION AND WORK ADJUSTMENT PROGRAM

#### Subpart A—Definitions

##### § 402.1 Terms.

For the purposes of this part—

(a) The terms "act," "Administrator," "blind," "construction of a rehabilitation facility," "establishment of a rehabilitation facility," "handicapped individual," "physical or mental disability," "rehabilitation facility," "State," "State vocational rehabilitation agency" and "vocational rehabilitation services" shall, except where the context indicates otherwise, have the same meanings as set forth in § 401.1 of this chapter.

(b) "Advocacy" means intercession on behalf of disadvantaged individuals whenever necessary to ensure the effective utilization of evaluation and work adjustment services, and to follow-up the progress of such individuals who have received such services.

(c) "Disadvantaged individual" means any individual disadvantaged in his ability to secure or maintain appropriate employment by reason of physical or mental disability, youth, advanced age, low educational attainment, ethnic or cultural factors, prison or delinquency records, or any other condition, especially in association with poverty, which constitutes a barrier to such employment.

(d) "Evaluation and work adjustment services" means (1) vocational evaluation and related diagnostic services; (2) work adjustment services, including, as necessary, the utilization of simulated or real work experience; (3) outreach; (4) referral; (5) advocacy; (6) other goods or services necessary to ascertain the nature of a disadvantaged individual's handicap to employment and to determine those additional services from which the disadvantaged individual can be expected to benefit; (7) such services to family members of a disadvantaged individual as are necessary for the vocational evaluation and work adjustment of the disadvantaged individual; and (8) the administration of the evaluation and work adjustment services program.

(e) "Family members" or "members of the family" means any relative by blood or marriage of a disadvantaged individ-

ual and other individuals living in the same household with whom the disadvantaged individual has a close interpersonal relationship.

(f) "Outreach" means any activities or supportive assistance for the purpose of (1) identifying disadvantaged individuals and motivating them to seek evaluation and work adjustment services and (2) making evaluation and work adjustment services accessible and available to disadvantaged individuals served by other public and private agencies.

(g) "Referral" means any activities conducted for the purpose of making services of other public and private resources accessible and available to disadvantaged individuals served by the State agency.

(h) "State agency" means the State evaluation and work adjustment agency.

(i) "State plan" means the State evaluation and work adjustment plan.

#### Subpart B—The State Evaluation and Work Adjustment Plan

##### § 402.2 The State plan: general requirements.

(a) *Purpose.* A basic condition to the certification of Federal funds to a State for evaluation and work adjustment services is a State plan found to meet Federal requirements. This plan shall constitute a description of the State's vocational evaluation and work adjustment program, including the policies governing the program and the methods of administration which have been determined to be most efficient for achieving its goals. The State plan shall provide assurance that, unless otherwise indicated, administrative and financial policies, procedures, and requirements, where appropriate, shall be consistent with those policies, procedure, and requirements specified in the State plan for vocational rehabilitation services under Part 401 of this chapter. In addition, the State plan shall meet the requirements as to content hereinafter stated and shall provide for financial participation by the State, which may include non-Federal funds donated to the State. The Administrator shall approve any plan meeting the requirements of the act and this part.

(b) *Form.* The general form and content of the State plans are set forth in the State Plan Guide which is distributed to all State agencies.

(c) *Amendment.* The plan shall provide that it will be amended whenever necessary to reflect a material change in any phase of applicable State law, organization, policy, or agency operations and that such amendments will be submitted to the Social and Rehabilitation Service before they are put into effect, or within a reasonable time thereafter.

##### § 402.3 Approval of State plans and amendments.

Both the original State evaluation and work adjustment plan and all amendments thereto shall be submitted, reviewed, and approved in accordance with those procedures specified in § 401.3 under the State plan for vocational rehabilitation services.

**§ 402.4 Withholding of funds.**

(a) When after reasonable notice and opportunity for hearing to the State agency it is found that (1) the plan has been so changed that it no longer complies with the requirements of section 15(c) of the act, or (2) in the administration of the plan there is a failure to comply substantially with any such provision, further payments under section 15 may be withheld or limited as provided by section 5(c) of the act for similar action under the State plan for vocational rehabilitation services. The State agency is notified of the action taken.

(b) Judicial review and informal discussions pertaining to the withholding of funds shall be conducted in accordance with those procedures specified in § 401.4 under the State plan for vocational rehabilitation services.

**§ 402.5 State evaluation and work adjustment agency.**

(a) The State plan shall designate the same agency designated under section 5(a) of the act (other than the State blind commission or other agency providing assistance or services to the adult blind) as the State evaluation and work adjustment agency for purposes of administering the State plan.

(b) The State plan shall describe the organizational structure of the State agency and the administrative relationships which have been developed for the proper and efficient administration of the plan.

(c) The State plan shall further provide (1) that the State agency shall be responsible for the selection of individuals to receive evaluation and work adjustment services, the scope of such services and the provision (either directly or by contract) of evaluation and work adjustment services under the plan and (2) that the State agency shall maintain fiscal and administrative responsibility and shall be accountable for all program funds.

**§ 402.6 Cooperative and joint undertakings with other agencies.**

(a) The State plan shall provide that the State agency will cooperate, to the maximum extent possible, with other public and private agencies concerned with and serving disadvantaged individuals and will establish and maintain cooperative working relationships with such other public and private agencies in order to assure maximum utilization of resources for the disadvantaged.

(b) (1) The State plan shall further provide that the State agency shall participate in joint service programs and other joint undertakings and activities designed to coordinate the services of the State agency with those of other public and private agencies serving the disadvantaged. To the maximum extent possible, such cooperative and joint undertakings shall be planned with reference to the Cooperative Area Manpower Planning System, and shall be reviewed annually in the light of significant program emphases.

(2) Joint undertakings shall be evidenced by written agreements which

shall provide, among other things, for reciprocal referral services and continuing liaison, and which shall (i) describe the nature and scope of the activities to be conducted and the roles of each agency participating in the joint undertaking; (ii) specify the duration of the agreement; (iii) provide that to the extent that evaluation and work adjustment services are provided in the joint undertaking, the criteria of the State agency for the selection of individuals to receive such services and for the provision of such services will be met; (iv) describe the arrangements for financing the joint undertaking; and (v) describe the means by which the effectiveness of such joint undertakings will be evaluated.

(c) The State plan shall further provide that the State agency shall assign the highest priority to developing co-operative activities with those agencies sponsoring or administering a concentrated employment program, a work incentive program, or other related manpower programs with similar objectives.

(d) In States where there is a separate vocational rehabilitation agency for the blind, the State plan shall provide that the State agency and the State agency for the blind will jointly plan programs and activities for disadvantaged individuals who are also blind in order to assure that such individuals receive the services most appropriate to their needs. Where such joint planning leads to written agreements, such agreements shall specify the respective roles of each agency and financial arrangements for providing evaluation and work adjustment services to blind disadvantaged individuals.

**§ 402.7 Standards of personnel administration.**

The State plan shall assure that the State agency's standards of personnel administration shall be consistent with those standards specified in § 401.12 under the State plan for vocational rehabilitation services. To the maximum extent feasible, subprofessional personnel will be utilized in the provision of evaluation and work adjustment services. The State agency will review its policies in order to encourage the fullest participation of such personnel in the vocational evaluation and work adjustment program.

**§ 402.8 Standards for facilities and personnel.**

The State plan shall provide that the State agency will establish and maintain minimum standards for the various types of facilities and personnel utilized in providing services to disadvantaged individuals, and shall assure that such standards, insofar as applicable, shall be consistent with those standards specified in § 401.42 under the State plan for vocational rehabilitation services.

**§ 402.9 Order of selection for services**

(a) The State plan shall set forth the criteria to be used in selecting those disadvantaged individuals to whom services will be provided when services cannot be provided to all disadvantaged individuals who apply. Such criteria shall assure

that disadvantaged individuals who are clients or prospective clients of concentrated employment programs, work incentive programs, manpower agencies, public assistance agencies, or other agencies providing manpower development, training or employment services to the disadvantaged shall receive primary consideration in selection for services.

(b) The State plan shall provide that evaluation and work adjustment services will be provided without regard to whether a disadvantaged individual is in financial need. The State plan shall provide, however, that an individual's financial need shall be a consideration in determining the priority for selection for services when services cannot be provided to all disadvantaged individuals who apply for them in order to give preference to those disadvantaged individuals who are in financial need.

**§ 402.10 Reports.**

(a) The State plan shall provide that the State agency will make such reports in such form and containing such information as the Administrator may reasonably require, and will comply with such provisions as the Administrator may find necessary to assure the correctness and verification of such reports.

(b) The State plan shall further provide that all State agency records, statistics and other reports shall be maintained in such a manner as to distinguish handicapped individuals from other disadvantaged individuals served by the vocational evaluation and work adjustment program. To the extent practicable, such records, statistics and other reports will be compatible with reporting systems and methods utilized by manpower agencies serving the disadvantaged and State vocational rehabilitation agencies.

**Subpart C—State Plan Content: Services and Procedures****§ 402.20 Processing referrals and applications.**

The State plan shall describe the methods to be followed to assure the prompt processing of referrals and applications for evaluation and work adjustment services.

**§ 402.21 Acceptance for evaluation and work adjustment services.**

(a) *General provisions.* The State plan shall describe the policies and methods which the State agency will follow in providing evaluation and work adjustment services to a disadvantaged individual. The State plans shall assure that services will be provided by the State agency without regard to sex, race, creed, color, or national origin of the disadvantaged individual.

(b) *Basic conditions.* The State plan shall provide that acceptance or non-acceptance for evaluation and work adjustment services shall be based upon a preliminary screening to determine that: (1) The individual is disadvantaged; (2) the individual has a handicap to employment; and (3) the individual needs evaluation and work adjustment services. Such determination shall be in

writing and shall include a statement of acceptance or nonacceptance for further evaluation and work adjustment services.

(c) *Notification of determination.* The State plan shall provide that in those cases where individuals have been referred for services by another public or private agency, the State agency shall notify such other agency of its determination. Where individuals have made direct application for services, the State agency shall notify such individuals of its determination.

#### § 402.22 Comprehensive diagnostic study.

(a) The State plan shall provide that there will be a comprehensive and thorough diagnostic study of each disadvantaged individual which will consist of evaluation of those pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on his handicap to employment and his employment potential.

(b) The State plan shall provide that, in all cases, general medical information shall be obtained to appraise the current medical status of the disadvantaged individual.

(c) The State plan shall further provide that, in all cases, such diagnostic study shall include, to the degree needed, an evaluation of the individual's educational achievements, work experience, vocational aptitudes and interests, intellectual abilities, personality characteristics, attitudes, personal and social adjustments, employment opportunities, motivation for additional services, and such other pertinent data as may be helpful in determining the nature and scope of services needed.

#### § 402.23 Other evaluation and work adjustment services.

(a) The State plan shall describe the other evaluation and work adjustment services to be furnished to disadvantaged individuals, as needed, in order: (1) To appraise an individual's patterns of work behavior and ability to acquire occupational skills and (2) to develop an individual's work attitudes, work habits, work tolerance, and social and other behavior patterns suitable to prepare him for job training and future job performance.

(b) The State plan shall describe the provisions for furnishing, whenever appropriate, simulated or real work experience necessary to assess and develop a disadvantaged individual's capacities to perform adequately in a work environment.

(c) The State plan shall describe the provisions for furnishing services to family members of a disadvantaged individual when the provision of such services is necessary for the effective evaluation and work adjustment of the disadvantaged individual.

(d) The State plan shall describe the provisions for furnishing to a disadvantaged individual such other goods and services as are determined to be necessary for the effective evaluation and work adjustment of such an individual

and as are necessary for ascertaining: (1) The nature of such an individual's handicap to employment and (2) whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in the case where the disadvantaged individual is a handicapped individual, or other services in the case of other disadvantaged individuals.

#### § 402.24 Recording of case data.

(a) The State plan shall provide that the State agency will maintain records which will provide pertinent information about the individual and the services provided. For those individuals accepted for services on the basis of the preliminary screening, to the extent possible, such records shall include: (1) Data supporting the determination that the individual is disadvantaged and other data secured in the preliminary screening; (2) an enumeration and description of the evaluation and work adjustment services which have been provided to the disadvantaged individual (including any services provided to members of the disadvantaged individual's family and justification for the provision of such services); (3) a terminal report which includes a summary of pertinent findings and recommendations for further services or referral; and (4) the reasons and justifications for terminating services.

#### § 402.25 Reports to other agencies.

The State plan shall provide that, when indicated, other public or private agencies will be provided special progress reports concerning disadvantaged individuals, who have been referred by such other agencies for evaluation and work adjustment services, when such other agencies maintain a continuing relationship with the individual. The State agency shall also submit a comprehensive final report, describing the evaluation and work adjustment services provided to the disadvantaged individual and recommendations for additional services, to both the referring agency and to the public and private agencies to which the State agency has referred disadvantaged individuals for such additional services.

#### § 402.26 Referral to other agencies.

(a) The State plan shall provide that disadvantaged individuals who are found to be handicapped individuals shall be referred to the appropriate State vocational rehabilitation agency at such time as the State agency determines they will be served more effectively by vocational rehabilitation services.

(b) The State plan shall provide that, if possible, before evaluation and work adjustment services are terminated, arrangements will be made to refer the individual to an appropriate agency in order that necessary additional services may be provided. In the event that such a referral has not been made, the case record shall indicate the reasons therefor.

### Subpart D—Financing of State Vocational Evaluation and Work Adjustment Programs

#### § 402.30 Evaluation and work adjustment services.

(a) Federal financial participation will be available in expenditures made under an approved State plan for providing the following evaluation and work adjustment services to disadvantaged individuals: (1) Vocational evaluation and related diagnostic services; (2) work adjustment services, including, as necessary, the utilization of simulated or real work experience; (3) outreach; (4) referral; (5) advocacy; (6) other goods or services necessary to ascertain the nature of the disadvantaged individual's handicap to employment and to determine those additional services from which the disadvantaged individual can be expected to benefit; (7) such services to family members of a disadvantaged individual as are necessary for the vocational evaluation and work adjustment of the disadvantaged individual; and (8) the administration of the evaluation and work adjustment services program, including such minor alteration or renovation of existing buildings, equipment, and such other support as is necessary to increase the effective use of rehabilitation facilities providing evaluation and work adjustment services.

(b) Federal financial participation will also be available in expenditures for evaluation and work adjustment services made under the State plan, which are furnished by the State agency for other agencies of the State serving disadvantaged individuals.

(c) Federal financial participation will not be available in expenditures for the establishment or construction of rehabilitation facilities, or for the cost of any evaluation and work adjustment services for which payment has been made to the State agency by another public or private agency, or for which payment is made under any other part of this chapter.

#### § 402.31 Non-Federal funds.

In order to receive the Federal share of expenditures under the State plan, expenditures from State or local funds, including funds donated to the State, under such plan equal to the State's share must be made. Such funds may not consist of Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress.

#### § 402.32 Allotment of Federal funds for vocational evaluation and work adjustment services.

(a) For each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized by the act to be appropriated for that fiscal year for making grants to States for meeting the cost of vocational evaluation and work adjustment services under section 15 of the act as the product of the population of the State and the allotment percentage bears

to the sum of the corresponding products for all States. The allotment percentage shall be the same allotment percentage as is applied under the State plan for vocational rehabilitation services and shall be promulgated in the same manner (see § 401.85).

(b) The allotment to any State for any fiscal year which is less than \$50,000 (or such other amount as may be specified as a minimum allotment in the act appropriating such sums for such year) shall be increased to that amount, the total, of the increase thereby required being derived by proportionately reducing the allotments of each of the remaining such States, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

#### § 402.33 Payments from allotments.

The Administrator shall pay to each State an amount equal to the Federal share of the cost of evaluation and work adjustment services under its approved State plan. The Federal share for each State for the fiscal year ending June 30, 1969 and for each subsequent fiscal year shall be 90 per centum. The total of payments to a State for any fiscal year may not exceed its allotment under § 402.32 for such year.

#### § 402.34 Method of computing and making payments.

(a) *Estimates.* The Administrator shall prior to each fiscal quarter or other period prescribed by him, estimate the amount to be paid each State from its allotment for evaluation and work adjustment services under section 15 of the act. This estimate will be based on such records of the State and information furnished by it, and such other investigation, as the Administrator may find necessary.

(b) *Payments.* The Administrator shall pay, from the allotment available therefor, the amount so estimated for such period. In making any such payment, such additions and subtractions will be made as the State's accounting for any prior period and audit thereof may indicate as necessary in balancing the Federal-State account for any such prior period. Payments shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Administrator may determine.

### PART 403—SPECIAL PROJECTS IN VOCATIONAL REHABILITATION

#### Subpart A—Grants for Expansion of Vocational Rehabilitation Services

##### § 403.1 Terms.

For purposes of this subpart—

(a) The terms "act," "Administrator," "construction of a rehabilitation facility," "gainful occupation," "handicapped individuals," "nonprofit," "Regional Commissioner," "rehabilitation facility,"

"vocational rehabilitation services," and "workshop," except where the context indicates otherwise, have the same meaning as set forth in § 401.1 of this chapter.

(b) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

##### § 403.2 Purpose.

Under section 4(a)(2)(A) of the act, grants may be made to States and public and other nonprofit organizations and agencies for the purpose of planning, preparing for, and initiating special programs to expand vocational rehabilitation services where such programs show promise of substantially increasing the number of persons vocationally rehabilitated.

##### § 403.3 Non-Federal funds.

In the case of any project under this subpart for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal assistance may be furnished under this subpart for activities for which payment is made under another subpart of this part, another part of this chapter, or other authority.

##### § 403.4 Application procedure.

Application for a grant under this program may be submitted by a State vocational rehabilitation agency or other public or private nonprofit organization or agency which is now providing or is capable of providing vocational rehabilitation services leading to the placement of disabled persons in gainful occupations. The application shall be made in the form and detail required by the Administrator and shall be submitted to the Regional Commissioner for review for approval. If the applicant is an organization or agency other than a State vocational rehabilitation agency, the application must have prior approval of the appropriate State vocational rehabilitation agency or agencies before submittal to the Regional Commissioner. Applicants, when other than a State vocational rehabilitation agency, shall secure prior consultation and assistance from the appropriate State vocational rehabilitation agency or agencies and the Regional Commissioner in the development of their proposals and the preparation of their applications. Each applicant will be notified in writing of the action on its application.

##### § 403.5 Application content.

The application shall (a) describe the organization that will conduct the activities, showing the nature and scope of its

present vocational rehabilitation services and the number of State agency clients and others rehabilitated into gainful occupations in the past 2 years; (b) describe the specific activities to be undertaken, showing how these activities will increase directly the numbers of disabled persons prepared for and placed in gainful occupations; (c) provide for qualified and adequate staff, including a project director, and adequate supervision to accomplish the purpose of the project; (d) in the case of a grant for a private, nonprofit rehabilitation facility which is or which includes a workshop, specify that applicable Federal and State wage and hour standards will be observed or, in the case of a grant for a rehabilitation facility which is or which includes a workshop and is operated by a State, county, or municipal government, give assurance that the facility will comply with wage and hour standards specified by the Administrator, which will be at least equal to those imposed by the Fair Labor Standards Act; (e) specify the duration of the project; (f) set forth the budget for the project and the methods for meeting costs; (g) show plans for continuation of the project activity, if appropriate, including anticipated sources of funding, after expiration of the project grant; (h) describe arrangements for reporting to the State agency or agencies requested information regarding the persons served and those vocationally rehabilitated under the project; (i) contain an agreement to make such reports and to keep such records and accounts as the Administrator may require and to make such records and accounts available for audit purposes; and (j) provide such other information as the Administrator may find necessary to assure that the project meets requirement for approval.

##### § 403.6 Project activities.

(a) Expansion projects may include but are not limited to such activities as the following, provided they may be reasonably expected to result in a substantial increase in the numbers of persons vocationally rehabilitated: (1) The expansion and extension of present vocational rehabilitation services in order to serve additional disabled people; (2) the demonstration of newly developed rehabilitation techniques and methods that have been found to be effective; (3) the initiation of new vocational rehabilitation services or activities; (4) the initiation or expansion of vocational rehabilitation programs for groups of individuals with special problems, such as the disabled socially and culturally disadvantaged, disabled public offenders, or disabled public assistance recipients; (5) the extension of vocational rehabilitation programs and activities to areas of urban or rural poverty; and (6) the employment of additional staff in rehabilitation facilities and other service programs.

(b) Expansion projects may not include: (1) Construction or substantial alteration of rehabilitation facilities or other buildings, or the acquisition of



land or existing buildings; (2) research unless such activity is an essential component of a project primarily designed to provide services that will increase the number of handicapped individuals who will be vocationally rehabilitated; (3) staff training; or (4) activities designed primarily to improve administration unless it can be clearly shown that much improvement in administration will result directly in an increased number of handicapped individuals vocationally rehabilitated.

#### § 403.7 Federal financial participation.

The following conditions will govern Federal financial participation in approved expansion activities: (a) Federal financial participation will be available for only those expansion activities approved in the project application and only in the total amount approved in the project application; (b) Federal participation in any single expansion project shall be limited to a maximum of 3 years; (c) the Federal share of the approved project costs shall not exceed 90 per centum; and (d) the respective Federal and grantee shares are not applied to separate parts of the project but are treated as total project expenditures. If the grantee is a State vocational rehabilitation agency, grants shall be made only if the Administrator is satisfied that the State agency will comply with such conditions concerning the utilization of allotments and the expenditure of State funds as the Administrator may find necessary to assure that State funds will be effectively used to earn allotments under section 2 of the act.

#### § 403.8 Project revisions.

A revision to an approved project shall be submitted whenever necessary to reflect any material change in the scope of the project or in its operation or administration.

#### § 403.9 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Regional Commissioner and the State agency in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole or in part, at any time at the discretion of the Administrator. The grantee and the State agency will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

#### § 403.10 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is

satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 403.11 Reports.

In the case of any project a final activity report shall be submitted not later than 90 days following termination of the project. A progress report shall also be submitted with each request for a continuation grant. Financial and other reports shall be submitted at the intervals prescribed by the Administrator. All reports shall be submitted to the Regional Commissioner in the form and containing the information specified by the Administrator, with a copy to the State agency.

#### § 403.12 Payments.

Payment of the Federal share of an approved expansion project may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.

#### § 403.13 Distribution of funds.

Federal funds for expansion projects (except for a reserve for priority projects) will be distributed initially each year on the basis of population so that there will be opportunity in each State to plan for orderly expansion of vocational rehabilitation services and to submit approvable applications under this subpart. Funds may be redistributed from time to time during the year if they are not to be used within the State.

#### § 403.14 Factors considered in evaluating proposals.

In evaluating proposals for expansion grants a number of factors will be considered by the Social and Rehabilitation Service, such as the following: The extent to which a project proposal will result in an increased number of persons vocationally rehabilitated; the merit of a proposal in relation to other expansion proposals in the State; the distribution of expansion projects among the States and among various program areas, including disability groups; the extent to which proposals reflect stated priority concerns of the Social and Rehabilitation Service; the amount of Federal funds available for support of expansion projects; and alternate sources of financing for the proposed project activities.

#### Subpart B—Project Grants for Services for Migratory Agricultural Workers

#### § 403.20 Terms.

For purposes of this subpart—

(a) The terms "act," "Administrator," "handicapped individual," "local rehabilitation agency," "Regional Commissioner," "State," "State agency," "State vocational rehabilitation agency," and "vocational rehabilitation services," except where the context indicates otherwise, shall have the same meanings as set forth in § 401.1 of this chapter.

(b) "Pilot or demonstration project" means a project to provide vocational rehabilitation services to handicapped migratory agricultural workers and to members of their families and to develop improved methods and techniques for the delivery of such services.

(c) "Migratory agricultural worker" means a person who occasionally or habitually leaves his place of residence on a seasonal or other temporary basis to engage in ordinary agricultural operations or in services incident to the preparation of farm commodities for the market in another locality in which he resides during the period of such employment. (See 29 CFR Part 11.)

(d) "Family members" or "members of the family" means any relative by blood or marriage of a handicapped migratory agricultural worker and other individuals living in the same household with whom the handicapped migratory agricultural worker has a close interpersonal relationship, and who are with the worker, or have accompanied the worker on his migratory tour to the point in time at which the State agency comes into contact with him.

(e) "Transportation" means the necessary travel and related costs in connection with transporting handicapped individuals who are migratory agricultural workers and members of their families (whether or not handicapped) who are with them for the purpose of achieving the vocational rehabilitation objective of the handicapped migratory agricultural worker. Transportation includes costs of travel and subsistence during travel (or per diem allowances in lieu of subsistence), and includes relocation and moving expenses necessary for the achievement of a vocational rehabilitation objective.

#### § 403.21 Purpose.

Project grants authorized in section 17 of the act shall be made for the purpose of paying part of the cost of pilot or demonstration projects for the provision of vocational rehabilitation services to handicapped individuals who are migratory agricultural workers and to members of their families (whether or not handicapped), where such services are necessary to the vocational rehabilitation of the handicapped migratory agricultural worker.

#### § 403.22 Non-Federal funds.

In the case of any project under this part, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal financial assistance may be furnished under this subpart for activities for which payment is made under another subpart of this part, another part of this chapter, or other authority.

#### § 403.23 Application procedure.

(a) A State agency may submit an application to the Regional Commissioner at any time.



(b) A local rehabilitation agency shall submit an application to the State agency for State agency approval, and the State agency shall forward such applications to the Regional Commissioner.

(c) Final approval of all applications shall be made by the Administrator. Each applicant will be notified in writing of the action on its application.

#### § 403.24 Joint projects in two or more States.

A State agency may, if it so desires, enter into an agreement with the vocational rehabilitation agencies of one or more other States to develop a cooperative program for the provision of vocational rehabilitation services to handicapped migratory agricultural workers and members of their families.

#### § 403.25 Application content.

Applications shall be made in appropriate form and detail and shall (a) describe the purposes and objectives of the project and the specific activities to be undertaken; (b) provide for qualified and adequate staff including a project director, to accomplish the purpose of the project; (c) specify the duration of the project; (d) provide a proposed project budget; (e) (1) give assurance that there will be cooperation with other public and nonprofit private agencies having special skills and experience in the provision of services to migratory agricultural workers or their families, including programs dealing specifically with migratory agricultural workers authorized under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, and the Farm Labor Contractor Registration Act of 1963; and (2) be accompanied by statements of such understandings and cooperative agreements, as appropriate; (f) contain an agreement to make such reports and to keep such records and accounts as the Administrator may require, and to make such records and accounts available for audit purposes; (g) give assurance that the level and duration of maintenance payments shall be consistent with any maintenance payments made to handicapped individuals in the State under the act; and (h) provide such other information as the Administrator may require.

#### § 403.26 Project activities.

(a) Project activities for services for migratory agricultural workers shall include: (1) The provision of vocational rehabilitation services to handicapped individuals who are migratory agricultural workers; and (2) the provision of vocational rehabilitation services, including maintenance and transportation, to family members (whether or not handicapped), upon determination that such services to family members are necessary to the vocational rehabilitation of the handicapped migratory agricultural worker.

(b) Project activities may also include, but are not limited to, the following: (1) The planning and development of project activities to serve handicapped migratory agricultural workers and

members of their families; (2) the extension of present vocational rehabilitation services to settings more readily available to handicapped migratory agricultural workers and members of their families; (3) the demonstration of innovative techniques for the delivery of vocational rehabilitation services, such as mobile rehabilitation teams and units; (4) pre-vocational, adjustment, and vocational training (including literacy training), and job placement activities, aimed either at enabling handicapped migratory agricultural workers and members of their families to leave the migrant stream or to return to employment within migratory agricultural labor; (5) the employment and training of special staff within a State agency to provide casework, referral, and other essential services to handicapped migratory agricultural workers and members of their families; and (6) the demonstration of patterns and techniques of family unit rehabilitation.

(c) Projects shall not include those activities designed primarily for (1) basic research, (2) staff training, unless such training is demonstrated to have significant implication for improving the capacity of the State agency to serve handicapped migratory agricultural workers and members of their families and is included within a program of services to handicapped migratory agricultural workers and members of their families, or (3) initial staffing, and acquisition of initial equipment, except where necessary to provide services to handicapped migratory agricultural workers and members of their families.

(d) Project grants shall not be made for construction of rehabilitation facilities, except for minor remodeling or alteration of existing buildings necessary to provide services to handicapped migratory agricultural workers and members of their families.

#### § 403.27 Federal financial participation.

(a) Federal financial participation will be available for only those activities approved in the project application and only in the total amount approved in the project application.

(b) Federal financial participation in any single project for services for migratory agricultural workers shall be limited to a maximum of 5 years. The Federal share of the approved project costs shall not exceed 90 per centum of the cost of the project.

#### § 403.28 Project revision.

A revision to an approved project shall be submitted for approval whenever necessary to reflect any material change in the scope of the project or in its operation or administration.

#### § 403.29 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Administrator in writing, giving the reason for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole or in part, at any time at the dis-

cretion of the Administrator. The State agency or the local agency will be given prompt notice in writing of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributed to the Federal grant shall be refunded.

#### § 403.30 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 403.31 Reports.

In the case of any project a final report shall be submitted not later than 90 days following termination of the project. A progress report shall be submitted with each request for a continuation grant. Financial and other reports shall be submitted to the Regional Commissioner, in appropriate form, at intervals prescribed by the Administrator. Local rehabilitation agencies will submit reports to the State agency for forwarding to the Regional Commissioner.

#### § 403.32 Payments.

Payment of the Federal share of an approved project grant for services for migratory agricultural workers may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.

### Subpart C—Project Grants for New Careers for the Handicapped

#### § 403.35 Terms.

For purposes of this subpart—

(a) The terms "act," "Administrator," "handicapped individual," "nonprofit," and "Regional Commissioner" shall have the same meanings as set forth in § 401.1 of this chapter.

(b) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

#### § 403.36 Purpose.

Under section 4(a)(2)(D) of the act, grants may be made to State vocational rehabilitation agencies and other public and private nonprofit agencies to enable them to develop new programs to recruit and train handicapped individuals to

provide them with new career opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate public service employment.

#### § 403.37 Non-Federal funds.

In the case of any project under this subpart for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal financial assistance may be furnished under this subpart for activities for which payment is made under another part of this chapter, or other authority.

#### § 403.38 Application procedure.

Applications for grants under this program may be made at any time by State vocational rehabilitation agencies or by other public or private nonprofit agencies or organizations. The application shall be made in the form and detail required by the Administrator and shall be submitted to the Regional Commissioner for review for approval. Applicants other than a State vocational rehabilitation agency shall secure prior consultation and assistance from the appropriate State vocational rehabilitation agency or agencies in the development of their proposals and the preparation of their applications. If the applicant is an organization or agency other than a State vocational rehabilitation agency, the application must have prior approval of the appropriate State vocational rehabilitation agency or agencies before submittal to the Regional Commissioner for approval of the Social and Rehabilitation Service.

#### § 403.39 Application content.

The application shall (a) describe the organization that will conduct the activities, indicating the nature and scope of its public service programs; (b) describe the specific recruitment and training activities to be undertaken for handicapped individuals; (c) provide for qualified and adequate staff, including a project director, to accomplish the purpose of the project; (d) specify the duration of the project; (e) describe supportive services to be provided to handicapped individuals to be served within the project; (f) indicate plans for ensuring that individuals successfully completing the program have an opportunity for appropriate public service employment; (g) indicate the extent to which the occupations for which training is being provided offer possibilities for continuing full-time employment and realizable opportunity for promotion and advancement through structure channels of promotion; (h) assure that no training or instruction shall be provided to any individual for any one course of study for a period longer than 4 years; (i) set forth the proposed budget for the project; (j) contain an agreement to make such reports and to keep such records and accounts as the Administrator may require and to make such records

and accounts available for audit purposes; and (k) contain an agreement to provide such other information as the Administrator may find necessary to assure that the project meets the requirements for approval.

#### § 403.40 Project activities.

(a) Projects for new careers for the handicapped may include, but are not limited to, such activities as the following: (1) The provision of training and education which might not otherwise be available to handicapped individuals in need of new occupations; (2) the development of special training programs to enable handicapped individuals to enter public service occupations generally not open to them; (3) the establishment of new jobs or new kinds of jobs either within existing programs or as a part of a new service in a State vocational rehabilitation agency or in another public or private nonprofit public service agency; and (4) the redefinition and restructuring of existing jobs to enable new career opportunities in community and institutional public service programs.

(b) Projects for new careers for handicapped individuals may not include: (1) Construction, alteration, or renovation of buildings except for such minor alteration as might be necessary to eliminate architectural barriers of buildings used for the training or employment of handicapped individuals; or (2) research.

#### § 403.41 Selection of handicapped individuals to be served in projects.

Individuals to receive services under this subpart shall be only those individuals who have been determined by the State agency to be handicapped individuals who are suitable for such services.

#### § 403.42 Examples of new career opportunities for the handicapped.

(a) New career opportunities for the handicapped under this subpart may include training and preparation for positions in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate public service employment. Such career opportunities may be designed either to provide training in those fields and disciplines leading to professional and other employment within public service agencies, or to develop those skills necessary for subprofessional and other employment within appropriate public service agencies.

(b) New career opportunities for the handicapped may include positions within State vocational rehabilitation agencies and other public service agencies, and institutions and facilities such as hospitals, mental health centers, schools, libraries, and courts, which represent either new occupations for handicapped individuals in need of new types of gainful employment or new or redefined subprofessional positions within public service agencies. Such positions may include, but are not limited to, rehabilitation counselor aides, outreach workers, recreation aides, nursing home aides, hospital aides, mental health aides, community health service workers, li-

brary aides, school daycare aides, school clerical aides, patrolman aides, juvenile court aides, parole aides, and probation aides.

#### § 403.43 Federal financial participation.

(a) Federal financial participation will be available only for those activities approved, and in the amount specified, in the project application.

(b) Federal funds may be used to finance the costs of salaries and related expenses, including travel expenses; necessary supportive services provided to those handicapped individuals being recruited and trained for new career opportunities; training allowances for trainees; training supplies, rental of space; purchase of equipment; and other expenses approved by the Administrator.

(c) Federal financial participation in any single project shall be limited to a maximum of 5 years.

#### § 403.44 Project revision.

A revision to an approved project shall be submitted whenever necessary to reflect any material change in the scope of the project or in its operation or administration.

#### § 403.45 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 403.46 Reports.

In the case of any project, a final activity report shall be submitted not later than 90 days following termination of the project. A progress report shall also be submitted with each request for a continuation grant. Financial and other reports shall be submitted at the intervals prescribed by the Administrator. All reports shall be submitted to the Regional Commissioner in the form and containing the information specified by the Administrator, with copies to the State vocational rehabilitation agency if the grantee is other than the State agency.

#### § 403.47 Payments.

Payment of the Federal funds for an approved project may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subjected to such requirements as the Administrator may establish.

#### § 403.48 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Regional Commissioner and the State agency in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole

or part, at any time at the discretion of the Administrator. The grantee, and the State agency, if the grantee is other than the State agency, will be given prompt notice of the termination, including the reasons therefor. Such information shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

#### Subpart D—Projects With Industry

##### § 403.50 Terms.

For purposes of this subpart—

(a) The terms "act," "Administrator," "handicapped individual," "Regional Commissioner," and "vocational rehabilitation services" shall have the same meanings as set forth in § 401.1 of this chapter.

(b) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

##### § 403.51 Purpose.

Under section 4(a)(2)(B) of the act, contracts or jointly financed cooperative arrangements may be made with employers and organizations for the establishment of projects which are designed to prepare handicapped individuals for gainful employment in the competitive labor market and under which such individuals may be provided training and employment in a realistic work setting and such other services as are necessary for such individuals to continue to engage in such employment.

##### § 403.52 Employers and organizations.

A project may be undertaken only upon execution of a contract or arrangement between the Administrator and an employer or organization. Any industrial, business, or commercial enterprise; labor organization; or employer, industrial, or community trade association; or other agency or organization with the capacity to arrange, coordinate, or conduct training and other employment programs for the handicapped in a realistic work setting, may enter into such contracts or arrangements. Such training and employment programs shall include a planned and systematic sequence of training and instruction in occupational and employment skills, and provide reasonable assurance of gainful employment at the successful termination of such training and instruction.

##### § 403.53 Project activities.

Projects with industry may include, but are not limited to, such activities as the following: (1) The provision of on-the-job training for handicapped individuals; (2) the provision of prevocational and other job readiness training for

handicapped individuals; (3) such special orientation for supervisors; foremen, and other personnel as might contribute to the training and continuing employment of handicapped individuals; (4) supportive services such as job coaching, basic education, personal adjustment training, and personal and job counseling to assist handicapped individuals to maintain themselves in employment; (5) the recruitment and employment of special placement personnel by employers or organizations to assist in the job placement of additional numbers of handicapped persons; and (6) such other activities necessary to prepare handicapped individuals for competitive employment and to assist them to continue to engage in such employment.

##### § 403.54 Application procedure.

(a) An employer or organization desiring to apply for a project for training and employing the handicapped shall consult the State vocational rehabilitation agency for technical advice in the development of the project. In those cases where applicant employers or organizations are located in more than one State and propose to operate a project in more than one State, the applicant shall request technical advice from the Administrator.

(b) Where the proposed project involves activities to be conducted within a single State, the State vocational rehabilitation agency will explore the feasibility of the project. Where the proposed project involves activities to be conducted in more than one State, the Administrator shall conduct, or coordinate in association with the appropriate State agencies, studies of project feasibility.

(c) Where projects involve activities to be conducted in a single State, the application shall be submitted to the appropriate State vocational rehabilitation agency for review and evaluation and the State agency shall forward such applications to the Regional Commissioner for approval. Such approved applications shall be forwarded to the Administrator for execution of the contract or cooperative arrangement. Where projects involve activities to be conducted in more than one State, the application shall be submitted to the Administrator for coordination with the appropriate State vocational rehabilitation agencies and Regional Commissioners prior to the execution of the contract or cooperative arrangement.

##### § 403.55 Application content.

The application shall (1) include a description of the nature and scope of the project activities; (2) provide for qualified and adequate staff to accomplish the purposes of the project; and (3) provide a proposed budget.

##### § 403.56 Prior assurances for contracts and arrangements.

Prior to entering into a contract or a cooperative arrangement with an applicant, it will first be determined that there is:

(a) Concurrence with the project by the bargaining agent where there is a collective bargaining agreement applicable to the employer and the occupation;

(b) Reasonable assurance that the wage rate to be set for trainees will not tend to create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character;

(c) No abnormal labor condition such as a strike, a lock-out, or other similar condition, existing with respect to the applicant; and

(d) Reasonable assurance that the State agency will, to the maximum extent practicable, maintain a continuing relationship with the handicapped individuals to be served in the project in order to provide, or ensure the availability of, necessary vocational rehabilitation services and related supportive services.

##### § 403.57 General provisions of contracts and arrangements.

Any contract or arrangement entered into shall, in addition to standard provisions:

(a) Provide for adherence to the terms or conditions of employment prescribed by any applicable Federal, State, or local law;

(b) Provide that determination by competent authority of failure to adhere to the terms or conditions required by subsection (a) of this section shall constitute cause for termination of the contract or arrangement;

(c) Provide that the recruitment, examination, appointment, training, promotion, retention, or any other personnel action with respect to any handicapped individual receiving training or employment, shall be without regard to race, sex, color, creed, age, or national origin, and that violation shall constitute grounds for termination of the contract or arrangement and that the United States shall have a right to seek judicial enforcement of this provision;

(d) Provide that trainees shall be compensated for hours spent in production of any goods or services;

(e) Provide that individuals to receive training or employment services under the contract or arrangement will include only those individuals who have been determined by the appropriate State agency to be handicapped individuals who are suitable for such services;

(f) Provide reasonable assurance that handicapped individuals successfully completing the training program will be employed by the employer or within a similar enterprise;

(g) Specify the duration of the project;

(h) Contain an agreement to make such reports and to keep such records and accounts as the Administrator may require, and to make such records and accounts available for audit purposes; and

(i) Contain an agreement to provide such other information as the Administrator may require.

**§ 403.58 Rates under contracts or arrangements.**

The contract or arrangement shall include the rate of compensation to be paid to trainees. In no case shall the wage rate paid a trainee be less than the following, whichever is highest:

(1) The minimum entrance rate for inexperienced workers in the same occupation or if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area;

(2) The minimum rate required under the Fair Labor Standards Act or the Walsh-Healey Public Contracts Act, to the extent that such acts are applicable to the trainee; and

(3) Any minimum rate applicable to the trainee and required under any other Federal law, or any State or local law.

The contract or arrangement shall further provide for an increasing rate of payment to trainees if the training program is of such duration that periodic increases are reasonable and if the proficiency of such trainees merits such increases.

**§ 403.59 On-the-job training.**

Where the contract or arrangement provides for on-the-job training, it shall:

(a) Provide for methods of instruction, progression of trainees, and size of the training group (including any appropriate combination of individualized or group training), which shall be comparable in duration to other training programs for the particular occupation, and adequate in content to qualify trainees for employment;

(b) Provide adequate and safe facilities and equipment; and

(c) Require that suitable records of attendance, performance and progress of trainees be maintained and that such records be made available to the Administrator when so requested.

**§ 403.60 Sharing of costs.**

Although no minimum share will be required of applicants, they may be expected to share the costs of projects. In such cases, the costs to be borne by the parties to the contract or arrangement will be a matter of negotiation.

**§ 403.61 Payments.**

(a) Payments under a contract or arrangement shall be pursuant to the terms thereof and may be made in advance on the basis of estimated costs of operation or by way of reimbursement and shall be subject to such requirements as the Administrator may establish;

(b) The total payments shall not exceed the amount specified in the contract or arrangement. Contracts or arrangements may provide for payment with respect to such items as job training services; instruction and supervision of trainees; training materials and supplies, including consumable materials, instructional aids, excessive waste and scrap;

supportive services; bonding fees, liability and insurance premiums; the purchase or modification of equipment adapted to the special capacity of handicapped individuals; such minor alteration and renovation as are necessary to ensure access and utilization of buildings by the handicapped; and other expenses approved by the Administrator.

**PART 404—PROJECT GRANTS AND ASSISTANCE FOR REHABILITATION FACILITIES**

**Subpart A—General**

**§ 404.1 Terms.**

For purposes of this part—

(a) The terms "act," "Administrator," "handicapped individual," "non-profit," "Regional Commissioner," "rehabilitation facility," "Secretary," and "workshop" shall, except where the context indicates otherwise, have the same meaning as set forth in § 401.1 of this chapter.

(b) "Construction" includes construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered, or renovated buildings.

(c) "Region" means a geographical region designated by the Department of Health, Education, and Welfare.

(d) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(e) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

**§ 404.2 Non-Federal funds.**

In the case of any project under this part for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal financial assistance may be furnished under this part for activities for which payment is made under another part of this chapter, or other authority.

**§ 404.3 Consultant fees.**

Fees for consultant services are allowable to the extent that such payments are in accordance with the policies and standard practices of the agency, organization, or institution to which a grant or contract has been awarded. Fees for consultant services may not be paid to any regular full-time Federal Government employee. They may not be paid to any other individual for activities which are ordinarily a part of his duties in another position for which there is Federal financial participation under the

act, or which conflict with his duties in such other position.

**§ 404.4 Technical assistance consultation.**

The Administrator may require that, where appropriate, a technical assistance consultation precede the award of any grant or be conducted during the grant period of any grant awarded under this part. Such consultation shall be performed by a consultant acceptable to both the Administrator and the appropriate State agency.

**§ 404.5 Standards.**

In all projects under this part, applications shall take into consideration the standards and criteria developed with the advice of the National Policy and Performance Council, set forth in the publication, "Standards for Rehabilitation Facilities and Sheltered Workshops" (VRA, 1967), as modified from time to time, and such other standards as may be designated by the Administrator. Where appropriate, an application shall demonstrate a reasonable expectation that the grant will enable the rehabilitation facility to make substantial progress towards meeting such standards and criteria. In the case of rehabilitation facilities already meeting such standards and criteria, the application shall demonstrate a reasonable expectation that the grant will make possible substantial improvement in the facility.

**Subpart B—Project Development Grants**

**§ 404.10 Purpose.**

Project development grants authorized in section 12(g) (2) of the act shall be made for the purpose of paying part of the cost of organized, identifiable activities which are undertaken for the program planning for, and the development of a project for the construction of a specific rehabilitation facility.

**§ 404.11 Applications.**

Applications for project development grants may be made at any time by public or other nonprofit agencies, institutions, or organizations which are either operating or are studying the feasibility of operating a rehabilitation facility. Applications shall be made in the form and detail required by the Administrator and shall include (a) a statement of the purpose of the project; (b) description of the nature and scope of the activities of the applicant; (c) description of the nature and scope of the activities to be undertaken, the methods to be used in accomplishing the purpose, qualifications of the staff to be assigned to the project, and the planning staff available; (d) identification of community resources to be represented in the planning activity; (e) a proposed budget; (f) an agreement to make such financial and administrative reports and to keep such records and accounts as the Administrator may require and to make such records and accounts available for audit purposes;

and (g) such other information as the Administrator may require.

**§ 404.12 Consultations with and approval of application by State agency.**

(a) The applicant shall be responsible for securing the advice and assistance of the appropriate State vocational rehabilitation agency or agencies in the development of an application. Applications shall be reviewed by the appropriate State agency or agencies for approval. The State agency shall indicate the relationship of the project to the purposes and priorities of the State rehabilitation facilities plan. Approved applications shall be forwarded to the Regional Commissioner for review for approval.

(b) Each applicant shall be notified in writing of the action on the application. Where applications are disapproved by the State agency, the applicant shall be notified by the State agency giving the reasons for disapproval, and the State agency shall forward a copy of such notification to the Social and Rehabilitation Service.

**§ 404.13 Duration of project.**

Project development grants shall be awarded for specified periods of not more than 12 months. Project development grants may be extended for periods beyond 12 months only under unusual circumstances.

**§ 404.14 Project reports.**

The final project development grant report shall be submitted to the appropriate State vocational rehabilitation agency and the Regional Commissioner at the termination of the grant period, and shall describe such planning studies as (a) the sources of potential clients and disability groups to be served in the facility; (b) the services to be provided in the facility and the proposed staffing plan; (c) the relationship of the proposed program to the programs of existing facilities and agencies in the area; (d) the participation of Community planning agencies and community health, welfare and social service agencies in the planning effort and evidence of both program and financial support of these agencies for the new or expanded facility; (e) in the case of a rehabilitation facility which is or which includes a workshop, the expected sources of industrial subcontracting or other types of work and evidence of the interest or representatives of industry and labor; (f) the anticipated relationship of the State vocational rehabilitation agency to the new program as agreed to by the State agency; (g) proposed compliance with applicable safety and labor standards; and (h) a proposed plan for financing of construction and operation of the new or expanded facility.

**§ 404.15 Federal financial participation.**

Federal financial participation shall be available for salaries (including fringe benefits) of additional personnel assigned directly to the project; fees for consultant services; staff or consultant

travel; costs associated with the use of volunteers in the project; preparation of the report; only such architectural planning as is incidental to program planning, but not including working drawings; and such other costs as are set forth in the approved application. The amount of a grant shall not exceed 90 per centum of the cost of the project.

**§ 404.16 Payments.**

Payment of the Federal share of the costs of the project shall be made quarterly, or for such other period as the Administrator may determine, as an advance for estimated costs or as reimbursement to the grantee.

**Subpart C—Grants for Construction of Rehabilitation Facilities**

**§ 404.20 Purpose.**

Under section 12 of the act, grants may be made to pay part of the cost of the construction of public or other nonprofit rehabilitation facilities. Construction of rehabilitation facilities may include construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such newly acquired, expanded, remodeled, altered, or renovated buildings. The cost of construction of rehabilitation facilities may include the cost of architectural fees and acquisition of land in connection with construction, but may not include the cost of offsite improvement. Construction of a rehabilitation facility may include construction of residential accommodations, except that in the case of a rehabilitation facility which is primarily a workshop, construction of such residential accommodations may include only such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of mentally retarded individuals and individuals with severe problems of mobility.

**§ 404.21 Applications.**

An application may be submitted at any time by a State vocational rehabilitation agency or any other public or nonprofit organization or agency which operates or proposes to operate a public or other nonprofit rehabilitation facility. Applications shall be made in the form and detail required by the Administrator and, to the extent applicable, shall include (a) a detailed estimate of the cost of the project; (b) a description of applicant's financial resources for the project; (c) a description of both the applicant's existing and proposed program of services; (d) in the case of a private, nonprofit rehabilitation facility which is or which includes a workshop, a statement that applicable Federal and State wage and hour standards will be observed or, in the case of a rehabilitation facility which is or which includes a workshop and is operated by a State, county, or municipal government, a statement that the facility will comply with wage and hour standards specified by the Administrator, which will be at least equal to those imposed by the Fair Labor Standards Act;

(e) in the case of a rehabilitation facility which is or which includes a workshop, a description of the expected sources of industrial subcontracting and other types of work; (f) a description of the existing and the proposed staffing plans; (g) a description of the relationship of the applicant agency to the State vocational rehabilitation agency or agencies and to other facilities and agencies in the community; (h) a description of community support for the project and preliminary project planning; (i) in the case of proposed acquisition of buildings or land, a statement as to its suitability for rehabilitation facility purposes and evidence of its value as determined by qualified assessors; (j) an itemized equipment list including all requested initial equipment; (k) a set of schematic drawings of the proposed project; and (l) such other information as the Administrator may require.

**§ 404.22 Assurances from applicant.**

In addition to any other requirements imposed by law, each construction grant shall be subject to the condition that the applicant will furnish and comply with the following assurances. The Administrator may, at any time, approve exceptions to those conditions and assurances where he finds that such exceptions are not inconsistent with the act and the purposes of the program:

(a) That the applicant has or will have a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a period of not less than 50 years undisturbed use and possession for the purpose of the construction and operation of the facility.

(b) That the Administrator's approval of the final working drawings and specifications, which must conform to the standards of construction and equipment specified by the Administrator, and the regulations of the Secretary of Labor relating to safety standards for rehabilitation facilities will be obtained before the project is advertised or placed on the market for bidding.

(c) That the applicant will perform actual construction work by the lump sum (fixed price) contract method; employ adequate methods of obtaining open competitive bidding prior to awarding the construction contract, and award the contract to the responsible bidder submitting the lowest acceptable bid; and will purchase all fixed equipment by adequate methods of open competitive bidding (including such fixed equipment as is not purchased through the construction contract) and award the contract to the responsible bidder submitting the lowest acceptable bid, except that competitive bidding procedures need not be employed for the purchase of specific fixed equipment items which are not included in the construction contract where such action is found by the Administrator, upon written justification by the applicant, to be required by the needs of the program.

(d) That applicant will enter into no construction contract or contracts for the project or a part thereof, the cost



of which is in excess of the estimated cost approved in the application for that portion of the work covered by the plans and specifications, without the prior approval of the Administrator.

(e) That applicant will submit to the Administrator for prior approval changes that substantially alter the scope of work, function, utilities, or safety of the facility.

(f) That applicant will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications.

(g) That applicant will maintain adequate and separate accounting and fiscal records and accounts for all funds provided from any source to pay the cost of the project, and permit audit of such records and accounts at any reasonable times.

(h) That applicant will furnish progress reports and such other information as the Administrator may require.

(i) That applicant will provide and maintain competent and adequate architectural or engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications.

(j) That sufficient funds will be available to meet the non-Federal share of the cost of construction. Availability of funds for the non-Federal share of construction costs shall mean (1) funds immediately available, placed in escrow, or acceptably pledged, or (2) funds or fund sources specifically earmarked in a sum sufficient for that purpose, or (3) other assurances acceptable to the Administrator.

(k) That sufficient funds will be available, when construction of the project is completed, for its effective use as a rehabilitation facility as evidenced by a proposed operating budget for the 2-year period immediately following completion of the project, or by such other evidence as the Administrator finds acceptable.

(1) (1) That any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined under the Davis-Bacon Act (40 U.S.C. 276a et seq.) and will receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of 8 hours in any calendar day or 40 hours in the workweek (40 U.S.C. 327-332); and

(2) That the following conditions and provisions will be included in all construction contracts:

(i) Provisions pertaining to applicable labor standards provisions of the Copeland Act (Anti-Kickback) and the Contract Work Hours Standards Act, except in the case of contracts in the amount of \$2,000 or less, and the rules and regulations issued under each of these acts.

(ii) The contractor shall furnish performance and payment bonds, each of

which shall be in the full amount of the contract price, and shall maintain, during the life of the contract, adequate fire, workmen's compensation, public liability, and property damage insurance.

(iii) Representatives of the Administrator will have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(m) That the facility will be operated and maintained in accordance with the minimum standards prescribed by the appropriate State regulatory agency for the maintenance and operation of such facilities.

(n) That the grantee will incorporate, or cause to be incorporated, into construction contracts paid for in whole or in part with funds obtained from the Federal Government under this subpart, such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246, and that the grantee will otherwise comply with requirements prescribed by and pursuant to such order.

(o) That, for a period of not less than 20 years after the completion of construction of the project, it will be used as a public or other nonprofit rehabilitation facility.

(p) That the applicant will incorporate in the bid document and construction contracts the standards for the design, construction, and alteration of buildings issued by the Administrator of General Services pursuant to the act approved August 12, 1968 (Public Law 90-480). Prior to the issuance of such standards, the applicant shall incorporate into such bid document and construction contracts the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified from time to time.

(q) That the applicant will conform to all the regulations of this subpart.

#### § 404.23 Approval of State agency.

(a) The applicant shall be responsible for securing the advice and assistance of the appropriate State vocational rehabilitation agency or agencies in the development of an application. Each application shall be reviewed by the appropriate State agency or agencies for approval. Approved applications shall be forwarded to the Regional Commissioner for review for approval.

(b) The approval by the State vocational rehabilitation agency or agencies shall contain or be accompanied by a statement indicating the relationship of the project to the purposes and priorities established in the State rehabilitation facilities plan, and the manner and extent to which the project will increase the scope and effectiveness of rehabilitation programs within the State with specific reference to the program of the State agency or agencies.

(c) Each applicant shall be notified in writing of the action on the application. Where applications are disapproved by the State agency, the applicant shall be notified by the State agency, giving

the reasons for disapproval, and the State agency shall forward a copy of such notification to the Social and Rehabilitation Service.

#### § 404.24 Amendment to an approved application.

Any amendment to an approved application resulting in a substantial change, shall be processed in the same manner as the original application. No such change shall be put into effect without the approval of the Administrator.

#### § 404.25 Distribution of funds.

Federal funds available for construction projects (except for a reserve for priority projects) will be distributed initially each year to each region on the basis of population. Opportunity will be given for the submittal of approvable applications from within each State. Funds may be redistributed from time to time during the year if they are not to be used within the region.

#### § 404.26 Factors considered in evaluating proposals.

In approving applications, the Administrator will give consideration to the availability of rehabilitation facilities and other pertinent factors. Preference will be given to those rehabilitation facilities which are primarily vocationally oriented, as contrasted with those which are primarily medically oriented.

#### § 404.27 Federal financial participation.

(a) The amount of a grant with respect to any construction project shall be equal to the same percentage of the cost of the project as the Federal share which would be applicable in the case of a rehabilitation facility (as defined in section 625(g) of the Public Health Service Act, 42 U.S.C. 291o(g)) in the same location.

(b) Federal funds will be available for the following types of expenditures under projects approved by the Administrator: (1) Costs of construction contracts; (2) architects' fees; (3) acquisition of land; (4) acquisition of existing buildings; (5) site survey and soil investigation; (6) supervision and inspection at the site; (7) fixed equipment; (8) movable equipment; and (9) other costs specifically approved in the application.

(c) Federal funds shall not be available for the costs of offsite improvements.

#### § 404.28 Construction payments.

Payments will be made on the basis of a certification by a qualified individual as to the amounts due the applicant for the cost of work performed and materials and equipment furnished. Such certification shall be based on adequate inspections to determine that the work has been performed upon a project or purchases have been made in accordance with the approved plans and specifications. Payments shall be made at periodic intervals consistent with the construction progress of the project. In extraordinary circumstances when necessary to maintain construction progress, advance payments may be made. Final payments



shall not be made until after completion of the project.

#### § 404.29 Construction standards.

Approved projects shall be constructed according to minimum standards of construction and equipment for rehabilitation facilities specified by the Administrator. Applicable State and local codes and regulations must be observed. The Administrator's standards must be followed where they exceed any State and local codes and regulations.

#### § 404.30 Recovery: good cause for other use of facility.

(a) If, within 20 years after completion of any construction project for which funds have been paid under this subpart, the rehabilitation facility shall cease to be a public or other nonprofit rehabilitation facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the U.S. district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(b) In determining whether there is good cause for releasing the applicant or other owner of the facility from its obligation, the Administrator shall take into consideration the extent to which:

(1) The facility will be devoted by the applicant or other owner to use for another public or nonprofit purpose which will promote the purpose of the act; or

(2) There are reasonable assurances that for the remainder of the 20-year period other public or nonprofit facilities not previously utilized for the purpose for which the facility was constructed will be so utilized and are substantially equivalent in nature and extent for such purposes.

#### Subpart D—Initial Staffing Grants

##### § 404.40 Purpose.

Initial staffing grants authorized in section 12(f) of the act shall be made for the purpose of paying part of the costs of compensation of the initial professional and technical staff of any public or nonprofit rehabilitation facility constructed after November 8, 1965.

##### § 404.41 Professional and technical staff.

Professional and technical staff for purposes of this section shall include such staff as workshop directors, placement specialists, foremen, floor supervisors, vocational instructors, physicians, nurses, psychologists, social workers, vocational evaluators, vocational counselors, physical therapists, occupational therapists, recreation therapists, speech and hearing therapists, administrators, special educators, business managers, medical record librarians, aides in professional fields, and staff in such other positions as the Administrator may approve.

##### § 404.42 Eligibility of rehabilitation facilities.

Initial staffing grants may be made only with respect to operation of a rehabilitation facility following construction. Preference shall be given to the staffing of rehabilitation facilities constructed with assistance under Subpart C of this part. Where the rehabilitation facility was in operation prior to construction, an initial staffing grant shall be made only for additional staff which enables the facility to provide new services or extend existing services to a substantially increased number of clients. Where the construction consists of remodeling, renovation, or alteration of an existing rehabilitation facility, such remodeling, renovation, or alteration shall be extensive enough to result in the addition of new services or the extension of existing services to a substantially increased number of handicapped individuals. If the requirements for a grant are met in each instance, there shall be no maximum number of initial staffing grants for which a rehabilitation facility may be eligible.

##### § 404.43 Applications.

The application for initial staffing grants may be made prior to the commencement of operation of a rehabilitation facility or during the 15-month period following the commencement of operation of the facility. Applications shall be in the form and detail required by the Administrator. The project application shall include (a) a narrative description of the rehabilitation facility's existing program services and staff; (b) a list of job titles and job specifications of staff positions for which assistance is requested; (c) estimates of salary needs for the initial 15 months of assistance and for the following 3-year period; (d) a financial statement for the most recent year of operation; (e) a narrative description of the need for personnel; (f) a narrative description of the related construction project; (g) evidence of new services or of the extension of services to an additional number of clients; (h) a description of the facility's plans for assuming the full cost of staffing at the termination of the grant; (i) in the case of a grant for a private, nonprofit rehabilitation facility which is or which includes a workshop, assurance that applicable Federal and State wage and hour standards will be observed or, in the case of a grant for a rehabilitation facility which is or which includes a workshop, and is operated by a State, county, or municipal government, assurance that the facility will comply with wage and hour standards specified by the Administrator, which will be at least equal to those imposed by the Fair Labor Standards Act; (j) assurance that the rehabilitation facility meets safety standards specified by the Administrator; (k) assurance that salaries are commensurate with the duties performed; (l) proposed starting date for the staffing project; (m) an agreement to make such financial and administrative reports and to make such

records and accounts as the Administrator may require and to make such records and accounts available for audit purposes; and (n) such other information as the Administrator may require.

##### § 404.44 Approval of State agency.

(a) The applicant shall be responsible for securing the advice and assistance of the appropriate State vocational rehabilitation agency or agencies in the development of an application. Each application shall be reviewed by the appropriate State agency or agencies for approval. Approved applications shall be forwarded to the Regional Commissioner for review for approval.

(b) The approval by the State vocational rehabilitation agency or agencies shall contain or be accompanied by a statement indicating the relationship of the project to the purposes and priorities established in the State rehabilitation facilities plan and shall indicate the manner and extent to which the project will increase the scope and effectiveness of rehabilitation programs within the State with specific reference to the program of the State agency.

(c) Each applicant shall be notified in writing of the action on the application. Where an application is disapproved by the State agency, the applicant shall be notified by the State agency, giving the reasons for disapproval, and the State agency shall forward a copy of such notification to the Social and Rehabilitation Service.

##### § 404.45 Federal financial participation.

The amount of Federal financial participation under an initial staffing grant shall be related directly to the date of the commencement of the operation of the rehabilitation facility. The date of commencement of operation of a rehabilitation facility shall be that date on which the first client is admitted for services after the completion of the related construction project or such earlier date after completion of such project as is specified in the approved application for the initial staffing grant. A grant shall not exceed 75 per centum of eligible compensation costs (including salary and fringe benefits) for the period ending with the close of the 15th month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

##### § 404.46 Payments.

Payment of the Federal share of the costs of the initial staffing project shall be made quarterly, or for such other period as the Administrator may determine, as an advance for estimated costs or as reimbursement to the grantee.

##### § 404.47 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Regional Commissioner and the State agency in writing, giving

the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated in whole or in part at any time at the discretion of the Administrator. The grantee and the State agency will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

#### **Subpart E—Rehabilitation Facility Improvement Grants**

##### **§ 404.50 Purpose.**

Rehabilitation facility improvement grants authorized in section 13(b) of the act shall be made for paying part of the cost of projects for rehabilitation facilities to analyze, improve, and increase their professional services to the handicapped, their business management or any other part of their operations affecting their capability to provide employment and services for the handicapped.

##### **§ 404.51 Eligible applicants.**

Any public or other nonprofit rehabilitation facility which has been in operation for at least 12 months (or an organization directly responsible for operation of such a rehabilitation facility) shall be eligible to apply for a rehabilitation facility improvement grant.

##### **§ 404.52 Applications.**

Applications for rehabilitation facility improvement grants may be made at any time. Applications shall be made in the form and detail required by the Administrator. The project application shall include (a) a detailed description of the present program within the rehabilitation facility and of existing needs for improvement; (b) a statement of the extent to which the rehabilitation facility improvement grant will make possible such improvement; (c) a proposed project budget; (d) in the case of a grant for a private, nonprofit rehabilitation facility which is or which includes a workshop, assurance that applicable Federal and State wage and hour standards will be observed or, in the case of a grant for a rehabilitation facility which is or which includes a workshop and is operated by a State, county, or municipal government, assurance that the facility will comply with wage and hour standards specified by the Administrator which will be at least equal to those imposed by the Fair Labor Standards Act; (e) assurance that the rehabilitation facility meets safety standards prescribed by regulations of the Secretary of Labor; (f) an agreement to make such administrative and financial reports and to keep such records and accounts as the Administrator may require and to make such records and accounts available for audit purposes; (g) a description of plans for maintaining the improvement after the expiration of the period of Federal assistance; and (h) such other information as the Administrator may require.

Applications for grants for salary assistance shall also include (i) a description of how existing staff are and will be utilized; (j) description of qualifications and utilization of additional staff; and (k) assurance that salaries of staff assisted through the grant will be commensurate with the duties to be performed.

##### **§ 404.53 Review by State agency.**

(a) The applicant shall be responsible for securing the advice and assistance of the appropriate State vocational rehabilitation agency or agencies in the development of an application. Each application shall be reviewed by the appropriate State vocational rehabilitation agency or agencies prior to forwarding to the Regional Commissioner for review for approval.

(b) The State agency or agencies shall make recommendations for approval or disapproval, and shall indicate the relationship of the project to the purposes and priorities established in the State rehabilitation facilities plan and the manner and extent to which the project will increase the scope and effectiveness of rehabilitation programs within the State with specific reference to the program of the State agency.

(c) Each applicant shall be notified in writing of the action on the application, by the Social and Rehabilitation Service.

##### **§ 404.54 Federal financial participation.**

Federal financial participation shall be available for the following types of expenditures under approved projects: (a) Staff salary assistance (including fringe benefits) in the employment of additional staff; (b) staff development activities, including educational leave; (c) studies by a recognized expert or consultant concerning the professional or business practices within the rehabilitation facility; (d) purchase or rental of equipment; and (e) other forms of assistance to rehabilitation facilities to carry out the purposes of this subpart as may be approved in the application. Federal financial participation shall not be available to pay costs of acquiring, constructing, expanding, remodeling, or altering any building. Federal financial participation shall not exceed 90 per centum of the total project cost for the first year of each project and may decrease in each subsequent year in which continuation support is provided.

##### **§ 404.55 Grant awards.**

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrances of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period (not in excess of 3 years) for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail prescribed by the Administrator.

##### **§ 404.56 Distribution of funds.**

Federal funds available for rehabilitation facility improvement grants (except for a reserve for priority projects) will be distributed initially each year to each region on the basis of population, with a view to making grants available for rehabilitation facilities in each State. Funds may be redistributed from time to time during the year if they are not to be used within the region.

##### **§ 404.57 Payments.**

Payments of the Federal share of the cost of the rehabilitation facility improvement project shall be made quarterly, or for such other period as the Administrator may determine, as an advance for estimated costs or as reimbursement to the grantee.

##### **§ 404.58 Reports.**

The grantee shall submit to the Regional Commissioner and to the State agency periodic activity reports describing the effect of the grants in improving the program of the rehabilitation facility. Financial, administrative, and activity reports shall be submitted in the form and at the intervals prescribed by the Administrator.

##### **§ 404.59 Termination.**

If for any reason the grantee discontinues an approved project, the grantee shall notify the Regional Commissioner and the State agency in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated in whole or in part, at any time at the discretion of the Administrator. The grantee and the State agency will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

#### **Subpart F—Technical Assistance to Rehabilitation Facilities**

##### **§ 404.65 Furnishing of technical assistance.**

Technical assistance authorized in section 13(c) of the act will be furnished, directly, or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof to provide technical assistance and consultation to public and other nonprofit rehabilitation facilities. Such technical assistance may be in such areas as the provision of medical, psychological, social, vocational, and other rehabilitation services within rehabilitation facilities; the utilization of subprofessional and support personnel within rehabilitation facilities; vocational evaluation and work adjustment techniques and practices; plant layout, contract procurement wage standards, industrial engineering, systems accounting, planning for efficient production on new contracts, work simplification, labor relations, and quality control.

**§ 404.66 Per diem payments.**

Experts or consultants, while providing technical assistance consultations pursuant to § 404.65, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per diem, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the government service employed intermittently.

**§ 404.67 Recommendations and reports.**

A rehabilitation facility which receives technical consultations will be furnished with the recommendations of the consultant. A copy of the recommendations will also be furnished to the appropriate State agency. The rehabilitation facility will be expected to give a prompt report concerning the consultation and a report 6 months afterwards as to what has been done about the recommendations.

**Subpart G—National Policy and Performance Council****§ 404.70 Appointment and composition.**

The National Policy and Performance Council shall consist of 12 members not otherwise in the full-time regular employ of the United States and appointed by the Secretary without regard to civil service laws. The Secretary shall, from time to time, appoint one of the members to serve as chairman. The appointed members shall be selected from among leaders in the vocational rehabilitation and workshop fields, State and local government, business and from among representatives of related professions, labor leaders, and the general public.

**§ 404.71 Term of office.**

Each appointed member shall hold office for a term of 4 years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term; and except that, of the members first appointed, three shall hold office for a term of 3 years, three shall hold office for a term of 2 years, and three shall hold office for a term of 1 year, as designated by the Secretary at the time of appointment. No member of the Council shall be eligible for reappointment until a year has elapsed after the end of his preceding term.

**§ 404.72 Duties.**

The Council shall (a) advise the Administrator with respect to the policies and criteria to be used in determining whether or not to make grants for projects for training services under Subpart H of this part; (b) make recommendations with respect to rehabilitation facility improvement and the extent to which the program under Subpart E of this part is effective in accomplishing its purpose, especially insofar as it relates to rehabilitation facilities which are or which contain workshops; and (c) per-

form such other services with respect to rehabilitation facilities which are or which contain workshops as the Administrator may request. The Administrator shall make available to the Council such technical, administrative, and other assistance as it may require to carry out its functions.

**§ 404.73 Per diem payments.**

Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding \$100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the government service employed intermittently.

**Subpart H—Grants for Projects for Training Services****§ 404.75 Purpose.**

Under section 13(a) of the act, grants may be made to States and public and other nonprofit organizations and agencies to pay 90 per centum of the cost of projects for providing training services, leading to gainful employment, to handicapped individuals in public or other nonprofit rehabilitation facilities.

**§ 404.76 Terms.**

For purposes of this subpart, unless otherwise indicated in this subpart, the terms below are defined as follows:

(a) "Training services" includes (1) training in occupational skills; (2) related services, including work evaluation, work testing, provision of occupational tools and equipment required by an individual to engage in such training, and job tryouts; and (3) payment of weekly training allowances to individuals receiving such training and related services.

(b) "Training in occupational skills" means a planned and systematic sequence of instruction under competent supervision which is designed to impart predetermined skills and knowledge with respect to a specific occupational objective or a job family, and to assist the individual to adjust to a work environment through the development of appropriate patterns of behavior.

(c) "Work evaluation" means the appraisal of the individual's capacity (1) to adjust to a work environment, (2) to acquire occupational skills, and (3) to attain appropriate vocational goals.

(d) "Work testing" means the utilization of work simulated or real, to assess the individual's productive, physical, and psychological capacity to adapt to a work environment.

(e) "Job tryouts" means work experience, within a rehabilitation facility or in conjunction with outside industry or other community resources to assist the individual to acquire knowledge and develop skills, and to assess his readiness

for job placement or fitness to engage in a specific occupation.

**§ 404.77 Eligible applicants.**

States and public and other nonprofit organizations and agencies shall be eligible to apply for grants for projects for training services. A State agency may apply for a grant for use in a rehabilitation facility operated or designated by the State agency.

**§ 404.78 Qualification of rehabilitation facilities.**

A basic condition for the receipt of a grant is that the rehabilitation facility, to be involved in the provision of training services, shall meet the following requirements: (a) It is a public or private nonprofit rehabilitation facility; (b) it has been in operation at least 1 year; (c) it will provide training courses in occupational skills (with the major portion of each course being provided within the rehabilitation facility) and related services including work evaluation, work testing, and job tryouts and the major portion of each of these items with the exception of job tryouts, will be provided within the rehabilitation facility; (d) it meets applicable safety standards prescribed by regulation of the Secretary of Labor; (e) it substantially meets the standards promulgated by the Administrator with the advice of the National Policy and Performance Council; and (f) it prepares trainees for gainful employment.

**§ 404.79 Application procedure.**

(a) Application for a project for training services shall be in the form and detail required by the Administrator. In the case of an applicant other than a State vocational rehabilitation agency, the application shall be reviewed by the appropriate State agency, and forwarded to the Regional Commissioner for review for approval. In the case of an application by a State agency, the application shall be submitted to the Regional Commissioner. Where the Social and Rehabilitation Service considers that an application has grant potential, it shall arrange for a survey of the facility which will be the site of the training services project.

(b) The Social and Rehabilitation Service will notify each applicant in writing of the action taken on its application.

**§ 404.80 Application content.**

The application for a grant shall: (a) Describe how the project will be organized including designation of a project director; (b) describe the role of the State agency in the project and its relationship with the facility in which the training is to be provided, including the determination by the State agency as to whether individuals are suitable for and in need of training services; (c) describe the rehabilitation facility in which the training will be provided, giving information on, (1) the kinds of training to be provided in relationship to employment possibilities, the manner in which this training will be provided, and the length of the various training programs,

(2) the staff and the qualifications of the staff that will be assigned to the project, as well as other supportive resources available, and (3) the methods to be followed in the development of the individualized training program for each trainee based upon his specific needs, capacities, interests, and other relevant factors; (d) specify the duration of the project; (e) set forth a budget for the project; (f) describe the procedures that will be followed for the placement and follow up of trainees in gainful employment upon completion of training; (g) contain an agreement to make such reports and to keep such records as the Administrator may require and to make such records and accounts available for audit purposes; (h) where the training will be provided in a private, nonprofit rehabilitation facility which is or which contains a workshop, give assurance that applicable Federal and State wage and hour standards will be observed or, where the training will be provided in a rehabilitation facility which is or which contains a workshop and is operated by a State, county, or municipal government, give assurance that the rehabilitation facility will comply with wage and hour standards specified by the Administrator, which will be at least equal to those imposed by the Fair Labor Standards Act, as amended; (i) give assurance that the rehabilitation facility will meet safety standards prescribed by regulation of the Secretary of Labor; (j) give assurance that the rehabilitation facility will substantially meet the standards promulgated by the Administrator with the advice of the National Policy and Performance Council; (k) state the source, or sources, of non-Federal funds; and (l) include such other information as the Administrator may require.

#### § 404.81 Assurances from applicant.

The applicant shall submit with his application assurances that (a) weekly training allowances will not reduce, but will supplement, any wages or other remuneration due a trainee, and the amount of the payment for the weekly training allowance will be identified and disbursed separately from any payment representing wages or other remuneration due a trainee, (b) no trainee will remain in training when it is determined that he is no longer making reasonable progress (as indicated by regular training progress reports) toward the completion of his training program or the development of a capability for gainful employment, or in any event for more than 2 years, (c) in the event any portion of the training services is performed outside the designated rehabilitation facility the applicant will retain responsibility for the quality of such services, and (d) the full range of training services will be made available to each trainee to the extent of his need for such services.

#### § 404.82 Site survey of rehabilitation facilities.

A suite survey will be made prior to final determination of an application that is considered to have grant potential in

order to determine whether the proposed project facility meets applicable safety standards prescribed by regulations of the Secretary of Labor and substantially meets standards promulgated by the Administrator with the advice of the National Policy and Performance Council. A site survey may also be made whenever the Administrator deems it necessary in connection with the project. The survey shall be conducted by a team competent in the field of rehabilitation facilities. The team shall include two or more of the following: (a) A representative of the State agency, (b) a person from an operating rehabilitation facility, other than the applicant, (c) technical assistance consultants from Social and Rehabilitation Service panels, or (d) other qualified persons except that where a State agency is the applicant, no officer or employee of such agency shall participate on the survey team. A written report of the survey in the form and detail required by the Administrator shall be submitted to the Social and Rehabilitation Service.

#### § 404.83 Selection of individuals to enter a project for training services.

The individuals to receive training services under a project will include only individuals who have been certified as eligible pursuant to § 401.30(b) of this chapter and have been determined, by the appropriate State agency of the State in which the rehabilitation facility is located, to be suitable for and in need of such training services.

#### § 404.84 Weekly training allowances.

(a) A weekly training allowance shall be available to each trainee, except that such allowance shall not be paid for any period in excess of 2 years and for any week shall not exceed \$25 plus \$10 for each of his dependents, or \$65, whichever is less. Dependents shall be included whose relationship to the trainee is that of spouse, parent, child under the age of 21 (including an adopted child or step-child), or handicapped child whose dependency is related to the handicap, and who are living in the same home with the trainee.

(b) The amount of the weekly training allowance shall be determined in accordance with §§ 404.85 and 404.86. It is anticipated that ordinarily the trainee will receive the maximum allowance of \$25 per week for himself, but such allowance may be adjusted pursuant to the provisions of § 404.86. In view of the incentive factor, however, the adjusted weekly training allowance available to a trainee shall not be less than \$10 per week. To the extent that the weekly training allowance is paid for dependents, the amount shall be \$10 per week for each dependent.

(c) The State agency shall make final determination, after consultation with the project facility and in accordance with the training services plan, with respect to (1) the amount of the weekly training allowance and (2) any adjustment to be made in the amount of the allowance.

#### § 404.85 Factors considered in determining the amount of weekly training allowances.

In determining the amount of such allowance the following factors shall be considered: (a) The extent of the need for the allowance, including any expenses reasonably attributable to receipt of training services, (b) the extent to which the allowance will help ensure entry into and satisfactory completion of training and (c) the extent which the allowance will motivate the trainee to achieve a better standard of living.

#### § 404.86 Factors considered in adjustment of weekly training allowances.

(a) Adjustment in the weekly training allowances may be made at any time during the individual's training period and the amount of the allowance shall be reviewed periodically. The project facility may propose the adjustment, but the final determination shall be made by the State agency.

(b) In considering whether adjustment is appropriate the following factors will be considered: (1) Whether the trainee is earning a wage, (2) the relationship of the amount of wages, if any, to the amount of the allowance, (3) any other material change in the economic condition of the individual or his family, and (4) the effect of any adjustment on the incentive of the trainee.

#### § 404.87 Federal financial participation.

(a) Federal financial participation will be available only in those costs set forth in the approved application for a training services project. Such costs may include (1) compensation costs (including salary and fringe benefits) of full-time or part-time employees of the project, (2) travel costs of such employees for travel essential to the project, (3) the purchase or rental of supplies, equipment, and materials necessary for the project, (4) indirect costs, if the rehabilitation facility is not operated by the State agency, (5) telephone, postage, and other communication costs, (6) in the case of a grant to a State agency, services provided through purchase or other contractual arrangement with a rehabilitation facility (not operated by the State agency) as set forth in the approved application provided such service costs include only items permitted by direct grant, (7) the purchase of psychological and other tests and testing materials to be used in the work evaluation of trainees, (8) the purchase of occupational tools and equipment required by trainees, to engage in training and job tryouts such tools and equipment to remain the property of the rehabilitation facility, (9) the payment of weekly training allowances, and (10) other costs as may be approved in the application. Federal financial participation shall be at the rate of 90 per centum of approved costs.

(b) Federal financial participation shall not be available to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

**§ 404.88 Grant awards.**

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purposes on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

**§ 404.89 Payments.**

Payments of the Federal share of an approved training services project may be made in installments, and in advance for estimated costs of operation or by way of reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.

**§ 404.90 Reports.**

Progress, financial, and other reports shall be submitted in the form and at intervals prescribed by the Administrator.

**§ 404.91 Project revision.**

A revision of an approved project for training services shall be submitted whenever necessary to reflect any material change in the scope of the project or its operation or administration.

**§ 404.92 Termination.**

If for any reason the grantee discontinues an approved project, the grantee shall notify the Social and Rehabilitation Service in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole or in part, at any time at the discretion of the Administrator. The grantee will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

**§ 404.93 Factors considered in evaluating proposals.**

In evaluating proposals for grants for projects for training services a number of factors will be considered by the Social and Rehabilitation Service such as: The distribution of training services projects among the regions; the types of disability groups served; the merit of a proposal in relation to other projects for training services in the region; and the amount of Federal funds available for support of training services projects.

**Subpart I—State Planning Grants for Rehabilitation Facilities****§ 404.100 Purpose.**

Planning grants authorized in section 12(g)(1) of the act shall be made for the purpose of paying part of the cost of organized efforts by the State vocational rehabilitation agencies to make an initial

determination of the State's needs for rehabilitation facilities, and to provide for a continuing program for assessing such needs and evaluating activities for establishment, construction, utilization, development, and improvement of rehabilitation facilities.

**§ 404.101 Single application.**

A single application shall be made by any State for a grant for a State planning project for rehabilitation facilities. Application may be made at any time by the State vocational rehabilitation agency, or, in States in which there is a separate agency for the blind, by either agency: *Provided*, That the other agency in the State submits in writing an endorsement of the application indicating agreement with the objectives and program stated therein and support for the project.

**§ 404.102 Joint planning by two or more States.**

A State agency may, if it so desires, enter into an agreement with the vocational rehabilitation agencies of one or more other States to develop a cooperative plan for (a) determining the need for rehabilitation facilities and (b) a continuing program to assess such needs and evaluate activities related to the establishment, construction, utilization, development and improvement of rehabilitation facilities.

**§ 404.103 Application content.**

Applications shall be made in the form and detail required by the Administrator and shall be submitted to the Regional Commissioner for review for approval. Applicants are encouraged to secure prior consultation and assistance from their Regional Commissioner in the development of their proposals and the preparation of the applications. The project application for an initial grant under this subpart shall include (a) designation of an individual with primary responsibility for the implementation of the project activities; (b) a description of the nature and scope of the activities to be undertaken during the initial grant period, and during the remainder of the project period, and the methods to be used in accomplishing the purposes of the project; (c) a proposed budget; (d) a description of the number and qualifications of the staff to be assigned to carry out effectively the purposes of the project; (e) a description of the methods by which representatives from public and other nonprofit agencies interested in the development and utilization of rehabilitation facilities will be involved in the planning effort either as individual consultants or as an advisory council; (f) a description of how this planning effort will be closely coordinated with other related planning in the State authorized under the act or other authority; (g) an agreement to make such financial and administrative reports and to keep such records and accounts as the Administrator may require and to make such records and accounts available for audit purposes; (h) an agreement to submit a project report, hereinafter referred to as

the State rehabilitation facilities plan, to the Regional Commissioner at the termination of the initial State planning grant; (i) such other information as the Administrator may require.

**§ 404.104 Duration of project.**

Initial State planning grants for rehabilitation facilities shall be available for a 12-month period. Continuation planning grants shall be available for 12-month periods commencing with the termination of the initial grant or subsequent continuation grants. An application for a continuation grant shall include a proposed budget, an agreement to review and update the rehabilitation facilities plan, and such other provisions as the Administrator may require.

**§ 404.105 State rehabilitation facilities plan: content.**

The State rehabilitation facilities plan shall include (a) an inventory of existing rehabilitation facilities within the State, or which can be readily utilized although located outside the State, and a description of services provided therein; (b) an evaluation of utilization patterns of existing facilities and their utilization potential; (c) a determination of needs for new rehabilitation facilities throughout the State including (1) relative needs on a geographical and disability basis, (2) a priority list of programmed projects over a short-range period, and (3) long-range goals; (d) a description of continuing activities of the State agency in the area of rehabilitation facilities as evidenced by anticipated programs under the act, the Medical Facilities Survey and Construction Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act, and other pertinent authority; (e) a description of continuing coordination of this planning with other planning activities within the State which involve rehabilitation facilities; and (f) such other information as the Administrator may require.

**§ 404.106 Federal financial participation.**

Federal financial participation shall be available for salaries (including fringe benefits) of employees who are assigned full or part time specifically to the planning activities; cost of travel of project staff or consultants; fees for special consultants; expenses attendant to the operation of an advisory council; services provided to the project under contract with planning organizations as set forth in the approved application; preparation and distribution of the State rehabilitation facilities plan and amendments thereto; and such other costs as are set forth in the approved application. The amount of any grant under this subpart shall not exceed 90 per centum of the cost of the project and shall not be greater than \$75,000 for any one year.

**§ 404.107 Payments.**

Payment of the Federal share of the costs of the State planning project shall be made quarterly, or for such other



period as the Administrator may determine, as an advance for estimated costs or as reimbursement to the grantee.

## PART 405—RESEARCH AND DEMONSTRATION

### Subpart A—General

#### § 405.1 Terms.

For purposes of this part—

(a) The terms "act," "Administrator," "handicapped individual," "non-profit," "Regional Commissioner," "rehabilitation facility," "Secretary," "vocational rehabilitation services," and "workshop" shall, except where the context indicates otherwise, have the same meaning as set forth in § 401.1 of this chapter.

(b) "Demonstration" means (1) a pilot study or experimental attempt to provide more and better vocational rehabilitation services than are available, for the purpose of testing or establishing standards or methods of service that are practicable and effective for general application in the vocational rehabilitation program; or (2) provision of a special type of rehabilitation service in order to test its value in vocational rehabilitation and to provide information on costs, methods of administration, methods of providing services, or rehabilitation techniques; or (3) provision of vocational rehabilitation services to handicapped individuals in a specific disability category not adequately served.

(c) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(d) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

#### § 405.2 Non-Federal funds.

In the case of any project under this part for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal financial assistance may be furnished under this part for activities for which payment is made under another part of this chapter, or other authority.

#### § 405.3 Consultant fees.

Fees for consultant services are allowable to the extent that such payments are in accordance with the policies and standard practices of the agency, organization, or institution to which a grant or contract has been awarded. Fees for consultant services may not be paid to any regular full-time Federal Government employee. They may not be paid to any other individual for activities which are ordinarily a part of his duties in another position for which there is Federal financial participation under

the act, or which conflict with his duties in such other position.

#### § 405.4 Audit and review.

(a) All fiscal transactions relating to Federal financial assistance under this part are subject to audit by the Department of Health, Education, and Welfare to determine whether expenditures have been made in accordance with the act, the regulations, and other requirements.

(b) From time to time members of the staff of the Social and Rehabilitation Service review administrative, fiscal and program methods and practices in connection with activities under this part, and make suggestions for the improvement of such methods and practices.

### Subpart B—Research and Demonstration in Vocational Rehabilitation

#### § 405.10 Purpose.

Special project grants authorized in section 4(a)(1) of the act shall be made for the purpose of paying part of the cost of organized, identifiable activities which are undertaken to seek solutions to vocational rehabilitation problems common to all or several States, or to contribute to the development of more effective vocational rehabilitation services in all or several States. Types of projects for which such grants may be made are: (a) Research in vocational rehabilitation; (b) demonstration programs in rehabilitation; and (c) establishment of special rehabilitation facilities or services meeting the purpose specified in section 4(a)(1) of the act. See also §§ 405.24 and 405.25 regarding rehabilitation research and training centers program.

#### § 405.11 Applications.

Applications for special project grants may be made at any time by State vocational rehabilitation agencies and by other public or nonprofit agencies and institutions, including universities and other educational institutions. Applications shall be made in the form and detail required by the Administrator. The project application shall cover (a) a statement of the purpose of the project; (b) designation of an individual as director-in-charge; (c) a description of the nature and scope of the activities to be undertaken and methods to be used in accomplishing the purpose; (d) a proposed budget; (e) an agreement to safeguard personal information pertaining to individuals served or studied under the project; (f) an agreement to make such reports and to keep such reports and accounts, including property and financial controls, as the Administrator may require, and to make such records available for audit purposes; and (g) such other information as the Administrator may require. See also §§ 405.22 and 405.23.

#### § 405.12 Approval of applications for special projects for research, demonstration, or establishment of special facilities or services.

Application for grants for paying part of the cost of a special project for re-

search, demonstration, or establishment of special facilities or services may be made only upon an official application form which may be obtained from the Administrator. Completed applications are submitted to the Administrator who processes them with the assistance of advisory groups for submission to the National Advisory Council on Vocational Rehabilitation. (See Subpart C of this part.) The applicant may be requested to submit further information either before or after consideration of a project by the National Advisory Council on Vocational Rehabilitation. Except as the Council may otherwise specify, all projects which meet the requirements for a grant are submitted to the Council which makes recommendations to the Administrator. The Administrator then determines the action to be taken with respect to each project and informs the applicant accordingly.

#### § 405.13 Approval of State agency.

The approval of the appropriate State vocational rehabilitation agency shall be secured by the applicant, if other than the State agency, for any special project which involves either direct services to handicapped individuals or the establishment of facilities which will render direct services to handicapped individuals of that State.

#### § 405.14 Federal financial participation.

Federal financial participation will be available for the following types of expenditures under projects approved by the Administrator: (a) Salaries, cost of travel, and related expenses of project personnel; (b) necessary supplies, equipment, and related expenses; (c) purchase or provision of vocational rehabilitation services to individuals served by the project; (d) costs of administration and other indirect costs of administration and other indirect costs of the project, subject to such limitations as the Administrator may establish; and (e) such other costs as are approved by the Administrator. Expenditures under the project shall be in connection with the conduct of the project as approved.

#### § 405.15 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 405.16 Payments.

Payment of the Federal share of an approved special project may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.



**§ 405.17 Revisions.**

A project grantee shall request that the project be revised whenever the approved plan of operation or method of financing is materially changed. Revisions originating with the grantee shall be submitted in writing and will be given appropriate review. Project revisions may be initiated by the Administrator if, on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing special projects.

**§ 405.18 Confidential information.**

(a) All information as to personal facts given or made available to any organization, its representatives or its employees under a special project grant authorized under this part, including lists of names and addresses and records of evaluation, shall be held to be confidential.

(b) The use of such information and records shall be limited to purposes directly connected with the project and may not be disclosed, directly or indirectly, other than in the administration thereof, unless the consent of the agency providing the information and the individual to whom the information applies has been obtained in writing. The final product of the project will not reveal any information that may serve to identify any person about whom information has been obtained without his written consent.

**§ 405.19 Termination.**

If for any reason the grantee discontinues an approved project, the grantee shall notify the Administrator in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole or in part, at any time at the discretion of the Administrator. The grantee and the State agency will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

**§ 405.20 Patents.**

Any invention arising out of the activities assisted by the grant shall be promptly and fully reported to the Administrator. Ownership and the manner of disposition of all rights in and to such invention shall be determined by the Administrator, in accordance with patent regulations and policy of the Department of Health, Education, and Welfare. The Social and Rehabilitation Service should be advised promptly prior to a grant award by the applicant (or grantee) of any commitment, obligation, or condition which would or could be an obstacle to the applicant's (or grantee's) fulfillment of this requirement.

**§ 405.21 Publications and copyright policy.**

Grantees may publish results of any activity assisted by the grant without prior review by the Social and Rehabilitation Service: *Provided*, That such publications carry a footnote acknowledging the assistance received under the grant, and that copies of the publications are furnished to the Social and Rehabilitation Service. Where a grant results in a book or other copyrightable material, the author is free to copyright the work, but the Social and Rehabilitation Service reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity.

**§ 405.22 Wage and hour standards for rehabilitation facilities which are or which contain workshops.**

Applications for grants under this subpart for rehabilitation facilities, which are or which contain workshops shall, in the case of private, nonprofit rehabilitation facilities, specify that applicable Federal and State wage and hour standards will be observed or, in the case of rehabilitation facilities operated by a State, county, or municipal government, give assurance that such facilities will comply with wage and hour standards specified by the Administrator, which will be at least equal to those imposed by the Fair Labor Standards Act.

**§ 405.23 Nondiscrimination in employment under construction contracts.**

Applications for grants under this subpart which provide for construction shall specify that the grantee will incorporate, or cause to be incorporated, into construction contracts paid for in whole or in part with funds obtained from the Federal Government under this subpart, such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246 and will otherwise comply with requirements prescribed by and pursuant to such order.

**§ 405.24 Rehabilitation research and training centers program; scope.**

(a) Special project grants under section 4(a) (1) of the act are also made for paying part of the cost of identified research and training activities carried on through rehabilitation research and training centers. Such activities must be part of a continuing program of coordinated, scientific research and professional and technical training designed to solve complex problems regarding management of disabling conditions and preparation of the handicapped for employment.

(b) Support may be given for center programs which emphasize the medical management of disabling conditions, the adjustment to limitations of function, the individual and environmental preparation necessary for the employment of the handicapped, or combinations of

these activities. In carrying out program objectives, centers may serve populations that are mixed or that derive from a categorical disability group requiring specialized knowledge and techniques.

**§ 405.25 Rehabilitation research and training centers program; applicable rules.**

(a) *Grantees.* Universities having well-recognized programs of research and training and State vocational rehabilitation agencies or public or private nonprofit comprehensive rehabilitation facilities or institutions associated with such universities, may apply for center grants. The center program must have a separate organizational identity.

(b) *Applications.* The application shall cover the proposed research, training and service activities, specify how these functions will form a unified program, and contain such other information as the Administrator may require.

(c) *Other provisions.* The provisions of §§ 405.10-405.23 shall apply to grants for rehabilitation research and training centers.

**Subpart C—National Advisory Council on Vocational Rehabilitation****§ 405.28 National Advisory Council on Vocational Rehabilitation.**

(a) *Appointment and composition.* The National Advisory Council on Vocational Rehabilitation shall consist of the Secretary (or his designee) as Chairman, and 12 members appointed by the Secretary without regard to civil service laws. The 12 appointed members shall be leaders in fields concerned with vocational rehabilitation or in public affairs, and six of such 12 shall be selected from leading medical, educational, or scientific authorities who are outstanding for their work in the vocational rehabilitation of handicapped individuals. Three of the 12 appointed members shall be persons who are themselves handicapped.

(b) *Term of office.* Each appointed member of the Council shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. None of such 12 members shall be eligible for reappointment until a year has elapsed after the end of his preceding term.

(c) *Duties.* The Council is authorized to review applications for special projects submitted under section 4(a) (1) of the act and recommend for grants any such project, or any project initiated by it, which it believes show promise of making valuable contributions to the vocational rehabilitation of handicapped individuals. The Secretary is authorized to utilize the services of any member or members of the Council in connection with matters relating to the administration of section 4 of the act for such periods in addition to conference periods, as he may determine.

(d) *Per diem payments.* Appointed members of the Council while attending

meetings or conferences thereof or otherwise serving on business of the Council or at the request of the Secretary, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government service employed intermittently.

(e) *Report to Congress.* The Secretary shall transmit to the Congress annually a report concerning the special projects initiated under section 4(a)(1) of the act, the recommendations of the National Advisory Council on Vocational Rehabilitation, and any action taken with respect to such recommendations.

#### Subpart D—Research Fellowships Under Section 7 of the Act

##### § 405.30 Purpose.

Under the authority of section 7 of the act, the Administrator is authorized to establish and maintain research fellowships in technical matters relating to vocational rehabilitation services for the purpose of increasing the number and competence of personnel concerned with the provision of such services. Financial assistance may be provided to individuals who are securing advanced research training or carrying out independent research in rehabilitation problems or methods. Such fellowships may be in the fields of physical medicine and rehabilitation, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, rehabilitation social work, prosthetics and orthotics, rehabilitation psychology, rehabilitation counseling, recreation for the ill and handicapped, and other specialized fields contributing to vocational rehabilitation.

##### § 405.31 Eligibility.

Research fellowships are available to any person who has demonstrated ability and special aptitude for advanced training or productive scholarship in the professional fields which contribute to the vocational rehabilitation of handicapped persons. Predoctoral, postdoctoral, and special research awards are made. A candidate for a fellowship shall meet the qualifications established by the Administrator for carrying out the purpose of research fellowships, including:

(a) The individual shall have filed an application in the form and manner prescribed by the Administrator, and shall have supplied pertinent information with respect to his scholastic and other qualifications and personal fitness for the proposed work;

(b) He shall be a citizen of the United States or shall have been lawfully admitted for permanent residence to the United States;

(c) He shall not be receiving other Federal educational benefits during the period of the Social and Rehabilitation Service fellowship.

##### § 405.32 Submittal and review of applications.

(a) Research fellowship application forms may be obtained from the Administrator. Applications may be submitted at any time.

(b) Selection of fellows is based on ability as evidenced by letters of recommendation, academic records, and other appropriate evidences of scholarly and research activity. Applications are submitted to the Research Fellowship Board of the Social and Rehabilitation Service for review and recommendation. Applications are presented to the Fellowship Board as soon as possible after they are received. However, in order to allow sufficient time for preliminary review, it is necessary that the application and all supporting documents be received at least 3 months prior to the desired notification date of action on the application.

(c) The Administrator determines the action to be taken on the award and the applicant is informed accordingly in writing.

##### § 405.33 Benefits.

Research fellowship awards may include:

(a) Stipends at rates fixed by the Administrator;

(b) Actual tuition costs and related fees, payable directly to the educational institution or facility;

(c) Vacation or other leave in accordance with the custom of the institution at which the fellow is working, but not in excess of 1 month per year; and

(d) Transportation and related expenses, in accordance with the Standard Government Travel Regulations, for travel to the location of the fellowship and travel required to carry out the purposes of the fellowship, including attendance at meetings. Such travel allowance shall not include expenses of transporting dependents, shipping charges for personal effects or household goods, or foreign travel.

##### § 405.34 Denials or terminations in the best interests of the United States.

Whenever with respect to an applicant for, or a recipient of, a research fellowship who otherwise meets the qualifications for such fellowship there is substantial reason to believe that the fellowship should be denied or terminated on grounds that the applicant or fellow has engaged in such criminal or other conduct as reflects seriously and adversely on his moral character, the Administrator shall so notify such applicant or fellow and inform him that, unless a request for a review is made within 20 days of the mailing of such notice, his application or request for renewal will be denied or his fellowship terminated. Any such request for review shall be promptly submitted by the Administrator to the Chairman of the Departmental Fellowship Review Panel for further proceedings in accordance with the regulations of the Secretary providing for such review. (Part 10 of this title.)

##### § 405.35 Conditions.

(a) *Location.* Research under a rehabilitation research fellowship shall be carried out only at the educational institution or facility specified in the award. It is the responsibility of the applicant to make all necessary arrangements for the conduct of his proposed research fellowship work with the institution or agency where the work will be done.

(b) *Publications.* All publications resulting from work accomplished under a Social and Rehabilitation Service research fellowship shall carry appropriate acknowledgment of the award, and copies of such publications shall be furnished to the Social and Rehabilitation Service. Where the work accomplished under a research fellowship award results in a book or other copyrightable material, the author is free to copyright the work, but the Social and Rehabilitation Service reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable material resulting from the award supported activity.

(c) *Patents.* Any invention arising out of the activities assisted by the award shall be promptly and fully reported to the Social and Rehabilitation Service. Ownership and the manner of disposition of all rights in and to such invention shall be determined by the Social and Rehabilitation Service, in accordance with patent regulations and policy of the Department of Health, Education, and Welfare. The Social and Rehabilitation Service should be advised promptly prior to an award by the applicant of any commitment, obligation or condition which would or could be an obstacle to the applicant's fulfillment of this requirement.

(d) *Confidential information.* All information as to personal facts given or made available to a research fellow in the course of his activities under the research fellowship award, including lists of names and addresses and records of evaluation, shall be held to be confidential. The use of such information and records shall be limited to purposes directly connected with the research fellowship award and may not be disclosed either directly or indirectly unless the consent of the agency providing the information and the individual to whom the information applies has been obtained in writing. The final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained without his written consent.

(e) *Final report.* The fellow is expected to send a copy of a final report to the Social and Rehabilitation Service within 30 days after termination of his award. A copy of the dissertation is required from predoctoral fellows.

##### § 405.36 Duration.

A research fellowship may be awarded for varying periods, such as for a full 12 months, and may be subject to extension

or renewal by the Administrator; *Provided*, That no research fellowship, or a combination of research fellowships and traineeships, shall be awarded to any individual for any one course of study for a period longer than 4 years.

#### § 405.37 Payment.

Payment of fellowship awards shall be made according to methods and rates established by the Administrator.

#### § 405.38 Termination.

The Administrator may terminate a research fellowship appointment before its expiration date at the request of the fellow or because of unsatisfactory performance, unfitness, or inability to carry out the purposes of the award.

### Subpart E—Intramural Research and Information

#### § 405.40 Intramural research.

Under section 7 of the act, the Administrator is authorized, directly or by contract to conduct research, studies, investigations, and demonstrations, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, and their utilization in gainful and suitable employment.

#### § 405.41 Information service.

Under section 7 of the act, the Administrator is also authorized, directly or by contract, to plan, establish, and operate an information service, to make available to agencies, organizations, and other groups and persons concerned with vocational rehabilitation, information on rehabilitation resources useful for various kinds of disability and on research and the results thereof and on other matters which may be helpful in promoting the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment. Activity under this authority may include the establishment and operation of a national information service in rehabilitation, using modern automated data equipment, to collect, store, analyze, retrieve, and disseminate information on the Federal-State program, research, training, prosthetics and orthotics, rehabilitation facilities, and other related aspects of vocational rehabilitation, as a service to agencies and individuals.

## PART 406—TRAINING AND TRAINEESHIPS

### Subpart A—General

#### § 406.1 Terms.

For purposes of this part—

(a) The terms "act," "Administrator," "construction of a rehabilitation facility," "establishment of a rehabilitation facility," "handicapped individual," "nonprofit," "rehabilitation facility," "Regional Commissioner," and "vocational rehabilitation services" shall, except where the context indicates otherwise, have the same meanings as set forth in § 401.1 of this chapter.

(b) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

#### § 406.2 Non-Federal funds.

In the case of any project under this part for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal financial assistance may be furnished under this part for activities for which payment is made under another part of this chapter, or other authority.

#### § 406.3 Consultant fees.

Fees for consultant services are allowable to the extent that such payments are in accordance with the policies and standard practices of the agency, organization, or institution to which a grant or contract has been awarded. Fees for consultant services may not be paid to any regular full-time Federal Government employee. They may not be paid to any other individual for activities which are ordinarily a part of his duties in another position for which there is Federal financial participation under the act, or which conflict with his duties in such other position.

#### § 406.4 Audit and review.

(a) All fiscal transactions relating to Federal financial assistance under this part are subject to audit by the Department of Health, Education, and Welfare to determine whether expenditures have been made in accordance with the act, the regulations, and other requirements.

(b) From time to time members of the staff of the Social and Rehabilitation Service review administrative, fiscal and program methods and practices in connection with activities under this part, and make suggestions for the improvement of such methods and practices.

### Subpart B—Training and Traineeships in Vocational Rehabilitation

#### § 406.10 Purpose.

Under section 4(a)(1) of the act, grants may be made to pay part of the cost of organized identifiable activities which are undertaken to seek solutions to vocational rehabilitation problems common to all or several States, or to contribute to the development of more effective vocational rehabilitation services in all or several States. Such grants may be for training, including education of personnel in all fields or disciplines which contribute to vocational rehabilitation, through the provision of training, teaching or traineeship grants. Grants

for training and traineeships may include training and traineeships in physical medicine and rehabilitation, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, rehabilitation social work, prosthetics and orthotics, rehabilitation psychology, rehabilitation counseling, recreation for the ill and handicapped, and other specialized fields contributing to vocational rehabilitation.

#### § 406.11 Applications.

Applications for project grants may be made at any time by State vocational rehabilitation agencies and by other public or nonprofit agencies and institutions, including universities and other educational institutions. Applications shall be made in the form and detail required by the Administrator. The project application shall cover (a) a statement of the purpose of the project; (b) a statement that the project will be under the direction of a single qualified project director; (c) a description of the nature and scope of the activities to be undertaken and methods to be used in accomplishing the purpose; (d) a proposed budget; (e) an agreement to safeguard personal information pertaining to individuals served or studied under the project; (f) an agreement to make such reports and to keep such records and accounts including property and financial controls, as the Administrator may require, and to make such records available for audit purposes; and (g) such other information as the Administrator may require.

#### § 406.12 Approval of applications for training or traineeships.

Application for grants for paying a part of the cost of a project for training or traineeships may be made only upon an official application form which may be obtained from the Administrator. Completed applications are submitted to the Administrator for processing and evaluation with the assistance of advisory groups. The applicant may be requested to submit further information. When all pertinent information has been obtained, a determination of the action to be taken is made by the Administrator who notifies the applicant accordingly.

#### § 406.13 Approval of State agency.

The approval of the appropriate State vocational rehabilitation agency shall be secured by the applicant, if other than the State agency, for any project which involves direct services to handicapped individuals.

#### § 406.14 Federal financial participation.

Federal financial participation will be available for the following types of expenditures under projects approved by the Administrator: (a) Salaries, cost of travel, and related expenses of project personnel; (b) necessary supplies, equipment, and related expenses; (c) purchase or provision of vocational rehabilitation services to individuals served by the project; (d) costs of administration and other indirect costs of the project, subject to such limitations as the Administrator may establish; and (e) such other costs

as are approved by the Administrator. Expenditures under the project shall be in connection with the conduct of the project as approved. Federal funds may not be used to provide training to any individual in any one course of study extending for more than 4 years. Federal funds may be used for traineeships only for individuals who are citizens of the United States or who have been lawfully admitted for permanent residence to the United States.

#### § 406.15 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 406.16 Payments.

Payment of the Federal share of an approved project may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.

#### § 406.17 Revisions.

A project grantee shall request that the project be revised whenever the approved plan of operation or method of financing is materially changed. Revision originating with the grantee shall be submitted in writing and will be given appropriate review. Project revisions may be initiated by the Administrator if, on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing special projects.

#### § 406.18 Confidential information.

(a) All information as to personal facts given or made available to any organization, its representatives or its employees under a grant authorized under this part, including lists of names and addresses and records of evaluation, shall be held to be confidential.

(b) The use of such information and records shall be limited to purposes directly connected with the project and may not be disclosed, directly or indirectly, other than in the administration thereof, unless the consent of the agency providing the information and the individual to whom the information applies has been obtained in writing. The final product of the project will not reveal any information that may serve to identify any person about whom information has been obtained without his written consent.

#### § 406.19 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Administrator in writing, giving the reasons for termination, an accounting of funds granted for the

project, and other pertinent information. The grant may be terminated, in whole or in part, at any time at the discretion of the Administrator. The grantee and the State agency will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

#### § 406.20 Patents.

Any invention arising out of the activities assisted by the grant shall be promptly and fully reported to the Social and Rehabilitation Service. Ownership and the manner of disposition of all rights in and to such invention shall be determined by the Administrator, in accordance with patent regulations and policy of the Department of Health, Education, and Welfare. The Social and Rehabilitation Service should be advised promptly prior to a grant award by the applicant (or grantee) of any commitment, obligation, or condition which would or could be an obstacle to the applicant's (or grantee's) fulfillment of this requirement.

#### § 406.21 Publications and copyright policy.

Grantees may publish results of any activity assisted by the grant without prior review by the Social and Rehabilitation Service: Provided, that such publications carry a footnote acknowledging the assistance received under the grant, and that copies of the publications are furnished to the Social and Rehabilitation Service. Where a grant results in a book or other copyrightable material, the author is free to copyright the work, but the Social and Rehabilitation Service reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity.

### Subpart C—Training Under Section 7 of the Act

#### § 406.30 Purpose.

Under section 7 of the act, the Administrator is authorized, to provide short-term training and instruction in technical matters relating to vocational rehabilitation services for the purpose of increasing the number and competence of personnel concerned with the provision of such services. Such training and instruction shall include the establishment and maintenance of traineeships to provide financial assistance to individuals who are pursuing technical or other specialized training courses. Such training, instruction, and traineeships may be in the fields of physical medicine and rehabilitation, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, rehabilitation social work, prosthetics and orthotics, rehabilitation psychology, rehabilitation

counseling, recreation for the ill and handicapped, and other specialized fields contributing to vocational rehabilitation.

#### § 406.31 Benefits.

Traineeship awards may include (a) amounts allowed to meet living costs of the trainee during training, payable according to the methods, intervals, and rates established by the Administrator; and (b) costs of travel and necessary per diem allowance in lieu of subsistence in connection with the training course, in conformity with the Standard Government Travel Regulations.

#### § 406.32 Applications.

Applications by prospective trainees for stipends or other allowances are made to the institution from which the applicant proposes to take instruction. Completed applications are filed with the institution to be processed under rules established by the Social and Rehabilitation Service.

#### § 406.33 Eligibility requirements.

A candidate for a traineeship award shall meet the requirements established by the Administrator, including:

(a) The candidate shall have filed an application in the form and manner prescribed by the Administrator and have supplied all pertinent information requested;

(b) He shall have been accepted by the educational institution or other sponsoring agency for admission to a course of study meeting the standards established by the Administrator with respect to rehabilitation training;

(c) He shall be a citizen of the United States, or shall have been lawfully admitted for permanent residence to the United States;

(d) He shall meet any other requirements set by the Administrator as necessary to carry out the purposes of section 7 of the act.

#### § 406.34 Conditions.

(a) Training shall be carried out only at the educational institution or agency designated by the Administrator in the traineeship award. A change of the training institution shall be made by the trainee only with the consent of the Administrator.

(b) Individuals receiving traineeship awards shall not be required to perform any services for the Social and Rehabilitation Service.

(c) The Social and Rehabilitation Service assumes no responsibility for employing or placing an individual awarded a traineeship, and a trainee is free to seek employment of his own choice upon conclusion of training supported by the award.

(d) Any publication resulting from work accomplished under the traineeship award shall include an acknowledgment of the award, and copies of such publication shall be furnished to the Social and Rehabilitation Service. Where the work accomplished under a traineeship award results in a book or other copyrightable material, the author is free to copyright the work, but the Social and

Rehabilitation Service reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copy-rightable or copyrighted material resulting from the award-supported activity.

#### § 406.35 Duration.

A traineeship award shall extend for one academic year, unless a shorter period is specified in the award. The Administrator may extend or renew an award upon application: *Provided*, That no training or instruction (including a combination of traineeship and research fellowship awards) shall be provided to any individual for any one course of study for a period longer than 4 years.

#### § 406.36 Payment.

Payment of traineeships shall be made according to methods and in amounts established by the Administrator.

#### § 406.37 Termination.

The Administrator may terminate any traineeship prior to the date it would otherwise expire, either on request of the trainee or because of unsatisfactory performance, unfitness, or inability to carry out the purpose of the traineeship.

### Subpart D—Project Grants for New Careers in Rehabilitation

#### § 406.40 Purpose.

Under section 4(a) (2) (C) of the act, grants may be made to State vocational rehabilitation agencies and other public and private nonprofit agencies to enable them to develop new programs to recruit and train individuals for new career opportunities in order to provide appropriate manpower in programs serving handicapped individuals and to upgrade or expand those services.

#### § 406.41 Application procedure.

Applications for grants under this program may be made at any time by State vocational rehabilitation agencies or by other public or private nonprofit agencies, or organizations, including universities and other educational institutions. The application shall be made in the form and detail required by the Administrator and shall be submitted to the Regional Commissioner for review for approval. Applicants other than a State vocational rehabilitation agency shall secure prior consultation and assistance from the appropriate State vocational rehabilitation agency and the Regional Commissioner in the development of their proposals and the preparation of their applications.

#### § 406.42 Approval of State agency.

The approval of the appropriate State vocational rehabilitation agency shall be secured by the applicant, if other than the State agency, for any project which involves direct services to handicapped individuals.

#### § 406.43 Application content.

The application shall (a) describe the organization that will conduct the project activities, indicating the nature and

scope of its programs serving handicapped individuals, or its relationship to other agencies directly serving handicapped individuals; (b) describe the specific recruitment and training activities to be undertaken; (c) provide for qualified and adequate staff, including a project director, to accomplish the purpose of the project; (d) specify the duration of the project; (e) describe supportive services to be available to trainees; (f) indicate plans for ensuring that individuals successfully completing the training program will have an opportunity for employment in programs serving handicapped individuals; (g) indicate the extent to which the occupations for which training is being provided offer possibilities for continuing full-time employment and realizable opportunity for promotion and advancement through structured channels of promotion; (h) assure that no training or instruction shall be provided to any individual for any one course of study for a period longer than 4 years; (i) set forth the proposed budget for the project; (j) contain an agreement to make such reports and to keep such records and accounts as the Administrator may require and to make such records and accounts available for audit purposes; and (k) contain such other information as the Administrator may require.

#### § 406.44 Project activities.

(a) Projects for new careers in rehabilitation may include, but are not limited to, such activities as the following: (1) The establishment of new jobs or new kinds of jobs either within existing programs or as a part of a new service in a State vocational rehabilitation agency or in another public or private nonprofit agency serving the handicapped; (2) the redefinition and restructuring of existing jobs to create new career opportunities in community, institutional, and other programs serving the handicapped; (3) the provision of work experience and related supportive services, such as basic education and remedial education services, counseling and guidance, health and medical services, and other forms of assistance designed to improve the performance of enrollees, increase their employability, and prepare them, to the maximum extent possible, for the occupation for which training is being provided; (4) the training of professional and managerial staff in the effective utilization of new types of staff; and (5) the development of a special recruitment activity designed to identify and attract persons with an interest in employment in programs serving handicapped individuals.

(b) Projects for new careers in rehabilitation may not include: (1) The provision of vocational rehabilitation services to handicapped individuals, except as may be provided by trainees during the course of their training; (2) the establishment or construction of rehabilitation facilities; or (3) research.

#### § 406.45 Federal financial participation.

(a) Federal financial participation will be available only for those activities

and in the amount specified in the approved project application.

(b) Federal funds may be used to finance the costs of salaries and related expenses, including travel expenses; necessary supportive services; training stipends for trainees (as determined by the Administrator); training supplies; rental of space; purchase of equipment; and other expenses related to the project and approved by the Administrator.

#### § 406.46 Project revision.

A revision to an approved new careers in rehabilitation project shall be submitted whenever necessary to reflect any material change in the scope of the project or in its operation or administration.

#### § 406.47 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 406.48 Reports.

In the case of any project a final activity report shall be submitted not later than 90 days following termination of the project. A progress report shall also be submitted with each request for a continuation grant. Financial and other reports shall be submitted at the intervals prescribed by the Administrator. All reports shall be submitted to the Regional Commissioner in the form and containing the information specified by the Administrator, with copies to the State agency, if the grantee is not the State vocational rehabilitation agency.

#### § 406.49 Payments.

Payment of the Federal funds for an approved new careers in rehabilitation project may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.

#### § 406.50 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Regional Commissioner and the State agency in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole or part, at any time at the discretion of the Administrator. The grantee and the State agency, if the grantee is other than the State agency, will be given prompt notice of the termination, including the reasons therefor. Such information shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.



# **PART 408—PROJECT GRANTS FOR REHABILITATION OF THE MENTALLY RETARDED**

## **Subpart A—General**

### **§ 408.1 Terms.**

For purposes of this part—

(a) The terms "act," "Administrator," "eligible," "nonprofit," "Regional Commissioner," and "vocational-rehabilitation services," shall, except where the context indicates otherwise, have the same meaning as set forth in § 401.1 of this chapter.

(b) "Demonstration" means (1) a pilot study to provide more and better rehabilitation services than are otherwise available to the mentally retarded, for the purpose of testing or establishing standards or methods of service that are practicable and effective for general application in programs for the rehabilitation of the mentally retarded; or (2) provision of a special type of service in order to test its value for the rehabilitation of the mentally retarded and to provide information on costs, methods of administration, methods of providing services, or rehabilitation techniques; or (3) provision of rehabilitation services to the multiply handicapped mentally retarded or other mentally retarded individuals not adequately served.

(c) "Establishment of special facilities and services" means the development, improvement, expansion, or coordination of any programs contributing to the rehabilitation of mentally retarded individuals.

(d) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(e) "State agency" or "State vocational rehabilitation agency" has the same meaning as set forth in § 401.1(v) of this chapter and, in addition, means the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands.

### **§ 408.2 Non-Federal funds.**

In the case of any project under this part for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. No Federal financial assistance may be furnished under this part for activities for which payment is made under another part of this chapter, or other authority.

### **§ 408.3 Consultant fees.**

Fees for consultant services are allowable to the extent that such payments are in accordance with the policies and standard practices of the agency, organization, or institution to which a grant or contract has been awarded. Fees for consultant services may not be paid to any regular full-time Federal Government employee. They may not be paid to any other individual for activities which are ordinarily a part of his duties

in another position for which there is Federal financial participation under the act, or which conflict with his duties in such other position.

### **§ 408.4 Audit and review.**

(a) All fiscal transactions relating to Federal financial assistance under this part are subject to audit by the Department of Health, Education, and Welfare to determine whether expenditures have been made in accordance with the act, the regulations, and other requirements.

(b) From time to time the Social and Rehabilitation Service may review administrative, fiscal, and program methods and practices in connection with activities under this part, and make suggestions for the improvement of such methods and practices.

## **Subpart B—Project Grants for Rehabilitation of the Mentally Retarded**

### **§ 408.10 Purpose.**

Project grants for rehabilitation of the mentally retarded authorized in section 4(a) (1) of the act shall be made for the purpose of paying part of the cost of organized, identifiable activities which are undertaken to contribute to the rehabilitation of those mentally retarded individuals generally not eligible for vocational rehabilitation services. Types of projects for which such grants shall be made are: (a) Research in rehabilitation of the mentally retarded; (b) demonstration programs in rehabilitation of the mentally retarded; (c) training, including in-service training and education of personnel in all fields or disciplines which contribute to the rehabilitation of the mentally retarded, through provision of training, teaching or traineeship grants; and (d) establishment of special facilities or services for the diagnosis, treatment, training, or care of the mentally retarded.

### **§ 408.11 Applications.**

Applications for project grants for the rehabilitation of the mentally retarded may be made at any time by States and public or other nonprofit organizations, agencies, and institutions, including universities and other educational institutions. Applications shall be made in the form and detail required by the Administrator. The project application shall cover (a) a statement of the purpose of the project; (b) provision for qualified and adequate staff, including a project director, to accomplish the purpose of the project; (c) a description of the nature and scope of the activities to be undertaken and methods to be used in accomplishing the purpose; (d) a proposed budget; (e) an agreement to safeguard personal information pertaining to individuals served or studied under the project; (f) an agreement to make such reports and to keep such records and accounts, including property and financial controls, as the Administrator may require, and to make such records available for audit purposes; and (g) such other information as the Administrator may require.

### **§ 408.12 Project activities.**

Projects for rehabilitation of the mentally retarded may include, but are not limited to, such activities as the following: (1) The expansion and extension of present services in order to serve additional numbers of mentally retarded persons; (2) the demonstration of newly developed techniques and methods that have been found to be effective in the rehabilitation of the mentally retarded; (3) the initiation of new rehabilitation services or activities for the mentally retarded; (4) the initiation or expansion of rehabilitation programs for mentally retarded individuals with special problems, such as the multiply handicapped adolescent or adult mentally retarded, who might not be eligible for vocational rehabilitation services, or mentally retarded children who cannot profit from available educational or vocational rehabilitation programs; (5) training of personnel in disciplines or occupations contributing to the rehabilitation of the mentally retarded; and (6) the extension of mental retardation programs and activities to areas of urban or rural poverty.

### **§ 408.13 Approval of applications for projects for rehabilitation of the mentally retarded.**

(a) Application for grants for paying part of the cost of a project may be made only from an official application form which may be obtained from the Administrator. Applicants shall secure prior consultation and assistance from the Regional Commissioner in the development of their proposals and the preparation of their applications. Completed applications are submitted to the Administrator who processes and evaluates them with the assistance of advisory groups. The applicant may be requested to submit further information either before or after consideration of a project. The Administrator determines the action to be taken with respect to each project and informs the applicant accordingly.

(b) In the case of a project which includes provision of direct vocational rehabilitation services to mentally retarded persons who are eligible for vocational rehabilitation services, the approval of the State vocational rehabilitation agency shall be secured by the applicant, if other than the State agency.

### **§ 408.14 Federal financial participation.**

Federal financial participation will be available for the following types of expenditures under projects approved by the Administrator: (a) Salaries, cost of travel, and related expenses of project personnel; (b) necessary supplies, equipment, and related expenses; (c) purchase or provision of rehabilitative services to individuals served by the project; (d) costs of administration and other indirect costs of administration and other indirect costs of the project, subject to such limitations as the Administrator may establish; and (e) such other costs as are approved by the Administrator. Expenditures under the project shall be in connection with the conduct of the project as approved. Federal funds may



not be used to provide training to any individual in any one course of study extending for more than 4 years. Federal funds may be used for traineeships only for individuals who are citizens of the United States or who have been lawfully admitted for permanent residence to the United States.

#### § 408.15 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in the form and detail required by the Administrator.

#### § 408.16 Payments.

Payment of the Federal share of an approved project may be made in advance for estimated costs of operation, or as reimbursement to the grantee and shall be subject to such requirements as the Administrator may establish.

#### § 408.17 Revisions.

A project grantee shall request that the project be revised whenever the approved plan of operation or method of financing is materially changed. Revisions originating with the grantee shall be submitted in writing and will be given appropriate review. Project revisions may be initiated by the Administrator if, on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing projects for rehabilitation of the mentally retarded.

#### § 408.18 Confidential information.

(a) All information as to personal facts given or made available to any organization, its representatives or its employees under a project grant authorized under this part, including lists of names and addresses and records of evaluation, shall be held to be confidential.

(b) The use of such information and records shall be limited to purposes directly connected with the project and may not be disclosed, directly or indirectly, other than in the administration thereof, unless the consent of the agency providing the information and the individual to whom the information applies has been obtained in writing. The final product of the project will not reveal any information that may serve to identify any person about whom information has been obtained without his written consent.

#### § 408.19 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Administrator in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information.

The grant may be terminated, in whole or in part, at any time at the discretion of the Administrator. The grantee will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination or completion of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

#### § 408.20 Patents.

Any invention arising out of the activities assisted by the grant shall be promptly and fully reported to the Administrator. Ownership and the manner of disposition of all rights in and to such invention shall be determined by the Administrator, in accordance with patent regulations and policy of the Department of Health, Education, and Welfare. The Social and Rehabilitation Service should be advised promptly prior to a grant award by the applicant (or grantee) of any commitment, obligation, or condition which would or could be an obstacle to the applicant's (or grantee's) fulfillment of this requirement.

#### § 408.21 Publications and copyright policy.

Grantees may publish results of any activity assisted by the grant without prior review by the Social and Rehabilitation Service: *Provided*, That such publications carry a footnote acknowledging the assistance received under the grant, and that copies of the publications are furnished to the Social and Rehabilitation Service. Where a grant results in a book or other copyrightable material, the author is free to copyright the work, but the Social and Rehabilitation Service reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity.

### PART 409—VENDING STAND PROGRAM FOR THE BLIND ON FEDERAL AND OTHER PROPERTY

#### § 409.1 Terms.

Unless otherwise indicated in this part, the terms below are defined as follows:

(a) "Act" means the Randolph-Shepard Vending Stand Act (Public Law 732, 74th Cong., 49 Stat. 1559, as amended by section 4 of Public Law 565, 83d Cong., 68 Stat. 663; 20 U.S.C. 107, chapter 6A).

(b) "Secretary" means the Secretary of Health, Education, and Welfare.

(c) "Administrator" means the Administrator of the Social and Rehabilitation Service in the Department of Health, Education, and Welfare.

(d) "Licensing agency" means the State agency designated by the Administrator pursuant to the act and this part, to issue licenses to blind persons for the operation of vending stands on Federal and other property.

(e) "Commission for the Blind" means a State agency which provides services exclusively for the blind and other visually handicapped individuals.

(f) "Program" means all the activities of the licensing agency, pursuant to the act and this part related to vending stands on Federal and other property.

(g) "Federal property" means any building, land, or other real property, owned, leased, or occupied by any department or agency of the United States or any instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any Territory or possession of the United States.

(h) "Other property" means property which is not Federal property and on which vending stands are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending stands on any Federal property.

(i) "License" means a written instrument issued by the licensing agency to a blind person, pursuant to the act and this part, authorizing such person to operate a vending stand on Federal or other property.

(j) "Operator" means a blind person licensed to operate a vending stand on Federal or other property under the act.

(k) "Permit" means the official authorization given a licensing agency by a department or agency in control of the maintenance, operation, and protection of Federal property, or person in control of other property, whereby the licensing agency is authorized to establish a vending stand.

(l) "Vocational Rehabilitation Act" means that act, as amended (29 U.S.C. ch. 4).

(m) "Vocational rehabilitation services" means those services necessary to render a blind person fit to engage in remunerative employment.

(n) "State vocational rehabilitation agency" or "State agency" means that agency in the State providing vocational rehabilitation services to the blind as the sole State agency under a State plan approved pursuant to the provisions of the Vocational Rehabilitation Act.

(o) "Vending stand" means:

(1) Such shelters, counters, shelving, display and wall cases, refrigerating apparatus, and other appropriate auxiliary equipment as are necessary for the vending of such articles as may be approved by the licensing agency and the Federal department or agency having control of the maintenance, operation and protection of Federal property or person in the control of other property; and

(2) Manual or coin-operated vending machines or similar devices for vending such articles.

(p) "Blind person" means a person having not more than 10 per centum visual acuity in the better eye with correction. This means a person who has

(1) Not more than 20/200 central visual acuity in the better eye after correction; or

(2) An equally disabling loss of the visual field; i.e., a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20°. Such blindness shall

be certified by a duly licensed ophthalmologist.

(q) "State" means a State, territory, or possession, or the District of Columbia.

**§ 409.2 Application for designation as licensing agency; general.**

(a) Applications for designation as licensing agency may be submitted only by a State vocational rehabilitation agency.

(b) The application shall:

(1) Be submitted in writing to the Administrator;

(2) Be approved by the chief executive of the State; and

(3) Be transmitted over the signature of the executive officer of the State agency making application.

**§ 409.3 Application for designation as licensing agency; contents.**

The application shall indicate:

(a) The licensing agency's legal authority to perform the functions necessary for the administration of the program, including its authority to issue regulations to govern the program which would have the force and effect of law within the State, and that such regulations will be issued in accordance with the provisions of State law.

(b) The licensing agency's organization for carrying out the program, including the methods of coordinating the vending stand program and the vocational rehabilitation program.

(c) The broad policies and standards to be employed in the selection of suitable locations for vending stands.

(d) The policies to be followed in making suitable vending stand equipment and adequate initial stocks of merchandise available and the sources of funds to be used therefor.

(e) The sources of funds for the management of the program and the amounts of funds, if any, to be set aside from the proceeds of the operation of vending stands.

(f) The policies and standards governing the relationship of the licensing agency to the operators, including their selection, duties, supervision, transfer, and financial participation.

(g) The methods to be followed in providing suitable training to blind persons selected for licensing under the program.

(h) The arrangements made or contemplated, if any, for the utilization of the services of any agency or organization; the agreements therefor and the services to be provided; the procedures for the supervision and control of the services provided by such agency or organization and the methods used in evaluating services received, the basis for remuneration, and the fiscal controls and accounting procedures.

(i) The arrangements made or contemplated, if any, for the vesting in accordance with the laws of the State, of the right, title to, and interest in vending stand equipment or stock (including vending machines), used in the program in a nominee of the licensing agency to hold such right, title to, and interest for program purposes.

(j) That the designated State licensing agency will:

(1) Cooperate with the Administrator in carrying out the purpose of the act;

(2) Take effective action, including the termination of licenses, to carry out full responsibility for the management and operation of each vending stand in its program, in accordance with its established rules and regulations, this part, and the terms and conditions governing the permit;

(3) Submit promptly to the Administrator a description of any changes in the legal authority of the licensing agency, its rules and regulations, and any other matters which form a part of the application;

(4) If it intends to set aside, or cause to be set aside, funds from the proceeds of the operation of vending stands, obtain a prior determination by the Administrator that the funds to be set aside do not exceed a reasonable amount;

(5) Furnish each operator a copy of its rules and regulations and a description of the arrangements for providing services, and take adequate steps to assure that each operator understands the provisions of such documents and the provisions of the permit and any agreement under which he operates, as evidenced by his signed statements; and

(6) Make such reports in such form and containing such information as the Administrator may from time to time require and comply with such provisions as the Administrator may from time to time find necessary to assure the correctness and verification of such reports.

**§ 409.4 Rules and regulations of licensing agency; general.**

(a) The State agency shall submit with its application rules and regulations which it has issued or proposes to promulgate immediately upon approval of its application. In the event proposed rules and regulations are submitted, the licensing agency shall within a reasonable time after the approval of its application, submit a copy of the promulgated regulations. Such rules and regulations shall contain adequate provisions to enable the licensing agency to carry out its responsibilities under the act and this part, and to assure the conduct of the program and the operation of each vending stand in accordance with the act, this part, and the regulations and conditions of the departments and agencies in control of maintenance, operation, and protection of Federal property, including the conditions contained in the permits, as well as all applicable State laws, local ordinances and regulations.

(b) Such rules and regulations and amendments thereto shall be filed or published in accordance with State law.

(c) Such rules and regulations shall include provisions adequate to insure that the right, title to, and interest in each vending stand used in the program and the stock will be vested in accordance with the laws of the State in only the following:

(1) The licensing agency;

(2) Its nominee, subject to the conditions specified in § 409.9(b); and

(3) The operator. The decision whether title may be vested in the operator rests with each State.

(d) Notwithstanding the provisions of paragraph (c) of this section, any right, title to, or interest which existed on June 30, 1955, in stock may continue so long as:

(1) The interest is with respect to the stock of a stand established under the program prior to July 1, 1955, and

(2) The operator was licensed in the program (whether or not for the operation of the vending stand in question) prior to July 1, 1955.

**§ 409.5 Rules and regulations; ownership by operators.**

If a State decides that title may be vested in the operator, the rules and regulations shall specify:

(a) That a written agreement shall be entered into with each operator who is to have such ownership, such agreement containing in full the terms and conditions governing such ownership in accordance with criteria in the State agency's regulations, any applicable Federal regulations and the terms and conditions of the permit.

(b) Reasonable criteria to govern the determination as to the circumstances under which title may be so vested. Such criteria shall contain reasonable provisions to enable an operator to purchase vending stand equipment. No individual may be denied the opportunity to become an operator because of his inability to purchase the vending stand equipment or the initial stock.

(c) Whether the operator-owner or licensing agency shall be required to maintain the vending stand in good repair and in an attractive condition and replace worn-out or obsolete equipment; and if the former, provide that upon his failure to do so, the licensing agency may make or cause to be made, the necessary maintenance, replacement, or repairs and make equitable arrangements for reimbursement.

(d) That where the operator owns such equipment and is required to maintain the vending stand in good repair and in an attractive condition and replace worn-out or obsolete equipment or agrees to purchase additional new equipment, service charges for such purposes shall be equitably reduced, and the method for determining such amount.

(e) That the State licensing agency shall retain a first option to repurchase such equipment, and in the event the operator dies, or for any other reason ceases to be a licensee or transfers to another vending stand, ownership of such equipment shall become vested in the licensing agency subject to an obligation on its part to pay to such operator or his estate, the fair value therein as determined in accordance with its regulations.

(f) That the operator, his personal representative or next of kin shall be entitled to an opportunity for a fair hearing with respect to the determination of the amount to be paid by the licensing agency for an operator's ownership in the equipment.

(g) The method to be used in determining the fair value of the operator's ownership in the equipment.

**§ 409.6 Rules and regulations: issuance and conditions of licenses.**

The rules and regulations of the licensing agency shall further provide:

(a) Objective criteria for licensing qualified applicants, including a provision for giving preference to blind persons who are in need of employment and have resided for at least one year in the State in which the stand is to be located. Such criteria shall also include provisions to assure that licenses will be issued only to persons who are determined by the licensing agency to be:

- (1) Blind;
- (2) Citizens of the United States;
- (3) At least 21 years of age; and
- (4) Certified by the State vocational rehabilitation agency as qualified to operate a vending stand.

(b) For the issuance of licenses for an indefinite period but subject to termination if, after affording the operator an opportunity for a fair hearing, the licensing agency finds that the vending stand is not being operated in accordance with its rules and regulations, the terms and conditions of the permit, or the agreement with the operator.

(c) For the assignment to the operator of the income from vending machines within reasonable proximity to and in direct competition with the vending stand. (If a vending machine vends articles of a type authorized by the permit and is so located that it attracts customers who would otherwise patronize the vending stand, such machine shall be considered to be in reasonable proximity to and in direct competition with the stand.)

(d) The policies to govern the duties, supervision, transfer and financial participation of the operators.

**§ 409.7 Rules and regulations; hearings.**

The rules and regulations shall specify the procedure whereby the licensing agency affords an opportunity for a fair hearing to each operator (or to his personal representative or next of kin in cases described in § 409.5(f)) dissatisfied with any action arising from the operation or administration of the vending stand program.

**§ 409.8 Rules and regulations; set aside of funds.**

The rules and regulations of the licensing agency shall specify the extent to which funds are to be set aside or caused to be set aside from the proceeds of the operation of the vending stands and that in no case will the amounts to be set aside exceed a reasonable amount as determined by the Administrator. Funds may be set aside only for the purposes of:

- (a) Maintenance and replacement of equipment;
- (b) The purchase of new equipment;
- (c) Management services;
- (d) Assuring a fair minimum of return to operators of vending stands; and

the rules and regulations of the licensing agency shall set out the method of determining the charge for each of the above listed purposes. Such method will be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required for that purpose. The rules and regulations shall further provide that adequate records will be maintained to support the reasonableness of the charges for each of the purposes listed in this section.

**§ 409.9 Use of servicing arrangement.**

(a) The licensing agency may enter into an agreement whereby another agency or organization undertakes to furnish services. Such agreement shall be in writing and contain provisions which:

(1) Clearly insure the retention by the licensing agency of full responsibility for the management and operation of all phases of the program;

(2) Specify the type and extent of the services to be provided under such agreement;

(3) Provide that no charges will be collected from operators except as specified in such agreement;

(4) Specify that such other agency or organization may not be allowed to exercise any function with respect to funds for the purchase of new equipment or for assuring a fair minimum of return to operators, except to collect and hold solely for the purchase of new equipment or for order of the licensing agency any charges authorized for those purposes by the licensing agency; and

(5) Specify that only the licensing agency shall have control with respect to selection, placement, financial participation and termination of the operators, and the preservation, utilization, and disposition of program assets.

(b) If the licensing agency permits any agency or organization other than an operator to hold any right, title to, or interest in vending stands or stock, the arrangement shall be one permitted by State law and shall specify in writing that all such right, title to, or interest is held as the nominee of the licensing agency for program purposes and subject to the paramount right of the licensing agency to direct and control the use, transfer, and disposition of such vending stands or stock.

**§ 409.10 Approval of application for designation as licensing agency.**

When the Administrator determines that the application and rules and regulations (or proposed rules and regulations) indicate a plan of program operations which will stimulate and enlarge the economic opportunities for the blind and meet the other requirements of the act and of this part, he shall approve the application and shall designate the applying agency as the State licensing agency.

**§ 409.11 Permit for establishment of vending stands.**

Prior to the establishment of each vending stand, the designated State

licensing agency shall submit and have approved, in accordance with regulations of the department or agency in control of the maintenance, operation, and protection of the Federal property (or procedures of the person in control of other property), an application for a permit setting forth the exact location, the amount of space to be occupied, the type of shelter and/or equipment, the types of items of merchandise to be offered for sale at each vending stand, including the number, location, and types of vending machines and other terms and conditions desired to be included in the permit.

**§ 409.12 Maintenance and repair of vending stands.**

The licensing agency shall maintain (or cause to be maintained) all vending stands in good repair and in an attractive condition and shall replace or cause to be replaced wornout and obsolete equipment as required to insure the continued successful operation of the stand.

**§ 409.13 Revocation of designation as licensing agency.**

The Secretary shall revoke the designation of any licensing agency if he finds after affording such agency an opportunity for a hearing, as herein-after provided, that, in the administration of the program, there is a failure on the part of such agency to comply substantially with the provisions of the act or of this part.

**§ 409.14 Revocation of designation as licensing agency; procedures.**

(a) If the Administrator has reason to believe that, in the administration of the program, there is a failure on the part of any licensing agency to comply, substantially with the act and this part, he shall so inform such agency in writing, setting forth, in detail, the areas in which there is such failure and giving it a reasonable opportunity to comply.

(b) If, after the lapse of a reasonable time, the Administrator is of the opinion that such failure to comply still continues and that the licensing agency is not taking the necessary steps to comply, he shall offer to such agency, by reasonable notice in writing thereto and to the chief executive of the State, an opportunity for a hearing before the Secretary (or person designated by the Secretary) to determine whether there is a failure on the part of such agency to comply substantially with the provisions of the act and of this part.

(c) If it is thereupon determined that there is a failure on the part of such agency to comply substantially with the act and this part, appropriate written notice shall be given to such agency and to the chief executive of the State revoking said agency's designation as licensing agency effective 90 days from the date of such notice.

(d) If, before the expiration of such 90 days, the Secretary (or person designated by him) determines that the licensing agency is taking the necessary

steps to comply, he may postpone the effective date of such revocation for such time as he deems necessary for the best interest of the program.

(e) If, prior to the effective date of such revocation, the Secretary (or person designated by him) finds that there is no longer a failure on the part of the licensing agency to comply substantially with the provisions of the act and of this part, he shall so notify the agency and the chief executive of the State, in which event the revocation of the designation shall not become effective.

**§ 409.15 Revocation of designation as licensing agency; effect.**

(a) Effective upon the receipt of the notice of revocation of a State agency's designation as licensing agency, in accordance with § 409.14(c), the licensing agency's authority to issue licenses to blind persons for the operation of vending stands on Federal and other property under the act and this part shall be suspended, except upon special authorization by the Administrator.

(b) After the effective date of the revocation of a State agency's designation as licensing agency, such agency shall

have no authority to issue licenses to blind persons for the operation of vending stands under the act and this part.

(c) If, at the expiration of 60 days from the effective date of a revocation of a State agency's designation as licensing agency, no other agency in the State is designated, pursuant to the provisions of the act and this part, as licensing agency, all licenses issued by the agency whose designation has been revoked shall terminate.

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